

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400

3050 K STREET, NW

WASHINGTON, DC 20007

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

DIRECT LINE: (202) 342-8614

EMAIL: dsmithn@kelleydrye.com

NEW YORK, NY
LOS ANGELES, CA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE
MUMBAI, INDIA

January 4, 2013

Via ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Assist Wireless, LLC Petition for Limited Designation as An Eligible
Telecommunications Carrier in Alabama, Connecticut, Delaware, the
District of Columbia, Florida, New Hampshire, New York, North
Carolina, Tennessee and Virginia WC Docket No. 09-197

Redacted for Public Inspection

Dear Ms. Dortch:

On behalf of Assist Wireless, LLC ("Assist") attached please find a redacted version of Assist's Petition for Limited Designation as An Eligible Telecommunications Carrier in Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee and Virginia ("ETC Petition").

This redacted version of the filing is being submitted electronically for inclusion in the public record of the above-referenced proceeding. A confidential version of the ETC Petition is being filed by hand delivery.

Please contact the undersigned at (202) 342-8614 should you have any questions regarding this filing.

KELLEY DRYE & WARREN LLP

Ms. Marlene H. Dortch, Secretary
January 4, 2013
Page Two

Respectfully submitted,

A handwritten signature in blue ink, appearing to read "Denise N. Smith". The signature is fluid and cursive, with the first name "Denise" being more prominent and the last name "Smith" following in a similar style.

John J. Heitmann
Denise N. Smith

Counsel to Assist Wireless, LLC

REDACTED FOR PUBLIC INSPECTION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

)	
In the Matter of)	
)	
Telecommunications Carriers Eligible to)	
Receive Universal Service Support)	
)	
Assist Wireless, LLC)	WC Docket No. 09-197
)	
Petition for Limited Designation as)	
An Eligible Telecommunications)	
Carrier in Alabama, Connecticut, Delaware,)	
the District of Columbia, Florida,)	
New Hampshire, New York, North Carolina,)	
Tennessee and Virginia)	
)	

**ASSIST WIRELESS, LLC
PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN ALABAMA, CONNECTICUT, DELAWARE,
THE DISTRICT OF COLUMBIA, FLORIDA, NEW HAMPSHIRE, NEW YORK,
NORTH CAROLINA, TENNESSEE AND VIRGINIA**

John J. Heitmann
Denise N. Smith
Kelley Drye & Warren LLP
3050 K Street, NW
Suite 400
Washington, D.C. 20007
(202) 342-8400

Counsel to Assist Wireless, LLC

Dated: January 4, 2013

REDACTED FOR PUBLIC INSPECTION

SUMMARY

Assist Wireless, LLC seeks designation as an eligible telecommunications carrier (“ETC”), pursuant to Section 214(e)(6) of the Communications Act of 1934, as Amended (the “Act”) and Federal Communications Commission (“FCC” or “Commission”) rules, for the limited purpose of providing wireless services supported by the Universal Service Fund’s Lifeline program. Section 214(e)(6) permits the Commission to grant ETC designation in those states where the state has affirmatively stated an ETC Petitioner is not subject to state jurisdiction. Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee and Virginia all have stated that they lack jurisdiction over wireless service providers and, consequently, Commission review and approval of Assist’s Petition is warranted.

As described in greater detail herein, Assist satisfies all of the requirements for designation as an ETC and is committed to complying with all of the Commission’s rules and requirements for ETCs providing Lifeline services. Grant of ETC status will be in the public interest as Assist’s provision of Lifeline-supported services will further the Commission’s goals of the Lifeline program by increasing the service options available to low-income consumers. Further Assist’s free and low-cost prepaid wireless services will provide an important source of high quality mobile service. Low-income consumers will have a stable contact method where traditional landline service is unavailable or is simply not the best option for the consumer. Additionally, the free and low-cost, prepaid nature of Assist’s service offerings permits consumers to anticipate and control their communications costs. Assist’s Lifeline service offerings include generous numbers of “free” anytime minutes that are an invaluable resource for cash-strapped consumers and features such as voicemail and call waiting that are critical to those

REDACTED FOR PUBLIC INSPECTION

seeking employment. Designation of Assist as an ETC will provide consumers with a valuable alternative for obtaining telephone service and this competition should spur other service providers to improve their service offerings to low-income consumers.

REDACTED FOR PUBLIC INSPECTION

TABLE OF CONTENTS

	Page
I. ABOUT ASSIST	2
II. THE PUBLIC UTILITY COMMISSIONS IN EACH OF THE FEDERAL JURISDICTION STATES HAVE AFFIRMATIVELY STATED THEY DO NOT REGULATE CMRS CARRIERS FOR PURPOSES OF GRANTING ETC DESIGNATIONS	2
III. ASSIST MEETS THE COMMISSION’S REQUIREMENTS FOR ETC DESIGNATION	3
IV. THE PUBLIC INTEREST WILL BENEFIT FROM GRANTING ETC STATUS TO ASSIST.....	11
V. ANTI-DRUG ABUSE CERTIFICATION	13
VI. CONCLUSION.....	13

REDACTED FOR PUBLIC INSPECTION

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

_____)	
In the Matter of)	
)	
Telecommunications Carriers Eligible to)	
Receive Universal Service Support)	
)	
Assist Wireless, LLC)	WC Docket No. 09-197
)	
Petition for Limited Designation as)	
An Eligible Telecommunications)	
Carrier in Alabama, Connecticut, Delaware,)	
the District of Columbia, Florida,)	
New Hampshire, New York, North Carolina,)	
Tennessee and Virginia)	
_____)	

**ASSIST WIRELESS, LLC
PETITION FOR LIMITED DESIGNATION AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER IN ALABAMA, CONNECTICUT, DELAWARE,
THE DISTRICT OF COLUMBIA, FLORIDA, NEW HAMPSHIRE, NEW YORK,
NORTH CAROLINA, TENNESSEE AND VIRGINIA**

Assist Wireless, LLC (“Assist” or the “Company”), pursuant to Section 214(e) of the Communications Act of 1934, as Amended (the “Act”), 47 U.S.C. § 214(e) and Section 54.202 of the rules of the Federal Communications Commission (“Commission” or “FCC”), 47 C.F.R. §54.202, hereby requests limited designation as an eligible telecommunications carrier (“ETC”) in Alabama, Connecticut, Delaware, the District of Columbia, Florida, New Hampshire, New York, North Carolina, Tennessee, and Virginia (hereinafter, “Federal Jurisdiction States”), for the sole purpose of receiving universal service Lifeline support. Assist does not request ETC

status for the purpose of receiving support from any other Universal Service Fund (“USF”) programs, nor does it seek support from the Link Up program.

The Federal Jurisdiction States all have affirmatively stated that they lack jurisdiction or will not assign ETC status to commercial mobile radio service (“CMRS”) providers. Accordingly, the Commission has jurisdiction, pursuant to Section 214(e)(6), to review and grant the Company’s request for designation as an ETC in the Federal Jurisdiction States. As discussed in more detail below, Assist meets the requirements for designation as an ETC and is able and prepared to offer the Lifeline-supported services throughout the Federal Jurisdiction States. Granting Assist ETC status will benefit the public interest by making the Company’s services available to a broad range of low-income consumers.

I. ABOUT ASSIST

Assist is an experienced provider of wireless mobile Lifeline services and is designated as a wireless Lifeline-only ETC in the States of Arkansas, Maryland, Missouri, and Oklahoma. The Company currently provides wireless mobile phone service to approximately 115,000 consumers throughout its ETC states and is seeking to expand its service territory to include similar ETC designations in Illinois, Louisiana, Mississippi and Pennsylvania. The Company provides its services using a combination of its own facilities and the resale of telecommunications services obtained from Sprint and Verizon Wireless.¹ Assist’s access to these robust and well-established networks enables it to provide its subscribers with quality and affordable wireless service.

Assist’s domestic voice and data service packages are particularly attractive and beneficial to low-income consumers. Assist offers subscribers a choice of free Lifeline Plans

¹ Assist purchases wireless services directly from intermediaries including Ready Mobile, Liberty Wireless and Natel Networks, LLC which resell the wireless services of Sprint and Verizon Wireless.

REDACTED FOR PUBLIC INSPECTION

that provide either 125 or 250 free voice minutes each month.² Subscribers also can purchase additional bundles of minutes at affordable rates. In addition to providing subscribers with a free handset, Assist's offerings include free text messages and several value-added features such as free voicemail, caller ID, call waiting and 3-way calling. Residents of Tribal Lands have a choice of two low-cost prepaid Lifeline plans that provide either unlimited, anytime voice minutes or 1,000 anytime voice minutes and text messages. The Tribal Lifeline offerings also include free features such as Call Waiting, Caller ID and voicemail.

Assist has created and tailored its service offerings to meet the needs of its primary customer base – those low-income consumers that often lack access to basic telephone service at affordable rates. The generous number of included free or low-cost voice minutes and value added features reflect this focus. Assist's subscribers previously may have had only intermittent telephone service or no service at all due to deposit, contract commitment or credit requirements associated with traditional telephone service. Assist does not require the contracts, credit checks or deposits that are often an insurmountable obstacles to low-income consumers and thereby provides consumer with a valuable alternative to traditional telephone services. Assist's free and low-cost service offerings and favorable terms enable low-income consumers to obtain much needed access to communications. Assist manages all aspects of the customer experience including confirmation of customer eligibility for participation in the Lifeline program, handset selection, marketing materials and live customer service. Assist focuses its marketing efforts to ensure low-income consumers are aware of the affordable service options available to them. Accordingly, Assist's provision of affordable and beneficial wireless service offerings contributes to the expansion of communications options available to low-income

² Assist also offers a free plan providing 68 free minutes per month but this offering is grandfathered to existing customers and is not offered to new customers.

consumers and should have the result of spurring other service providers to improve their service offerings.

II. THE PUBLIC UTILITY COMMISSIONS IN EACH OF THE FEDERAL JURISDICTION STATES HAVE AFFIRMATIVELY STATED THAT THEY DO NOT REGULATE CMRS CARRIERS FOR PURPOSES OF GRANTING ETC DESIGNATIONS

Section 214(e)(2) of the Act reserves to state public utility commissions the authority to designate ETC status to requesting entities.³ However, Section 214(e)(6) permits the FCC to designate a Petitioner as an ETC in cases involving a “common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission.”⁴ The FCC has stated that before it will consider an ETC application, the entity seeking ETC status must demonstrate that it “is not subject to the jurisdiction of a state commission”⁵ and that the entity must provide an “affirmative statement” from the relevant state commission that the carrier is not subject to the state commission’s jurisdiction.⁶ As demonstrated in the documents attached as Exhibit A, the public utility commission in each of the Federal Jurisdiction States has affirmatively stated that it lacks jurisdiction to designate ETC status. Accordingly, FCC review and approval of the instant application is warranted.

Assist ultimately desires to obtain ETC designation in several states and intends to file petitions requesting such designation with those state commissions that have chosen to assign ETC status. However, because the state public utility commissions in the Federal Jurisdiction States have specifically and affirmatively denied jurisdiction over CMRS providers

³ See 47 U.S.C. § 214(e)(1).

⁴ 47 U.S.C. § 214(e)(6).

⁵ See *Procedures for FCC Designation of Eligible Telecommunications Carriers Pursuant to Section 214(e)(6) of the Communications Act*, 12 FCC Rcd 22947 (1997).

⁶ See *Federal-State Joint Board on Universal Service; Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas*, 15 FCC Rcd 12208, ¶ 7 (2000).

for purposes of granting ETC status, Assist is not subject to state commission jurisdiction in any of the states for which it hereby seeks an ETC designation. The Commission has jurisdiction to grant ETC status in these states pursuant to Section 214(e)(6) of the Act.

III. ASSIST MEETS THE COMMISSION’S REQUIREMENTS FOR ETC DESIGNATION

Section 54.202 of the Commission’s rules outlines the requirements that must be met before a carrier can be designated as an ETC by the FCC. As discussed in further detail below, Assist meets these requirements and ETC designation in the Federal Jurisdiction States is warranted.

a) *Assist is a common carrier.*⁷

The Commission has consistently held that providers of wireless services are to be treated as common carriers for regulatory purposes. In addition, Section 332(c)(1)(A) of the Act states that CMRS providers will be regulated as common carriers.⁸ Assist provides mobile telecommunications services and, accordingly, is a common carrier.

b) *Assist will Provide the Lifeline-Eligible Services by Reselling the Services of Sprint and Verizon Wireless.*

Section 214(e)(1)(A) of the Act states that an ETC must provide services “using its own facilities or a combination of its own facilities and resale of another carrier’s services.”⁹ The Commission’s recent order modernizing the Lifeline program granted blanket forbearance from this requirement, subject to conditions, to all ETC petitioners seeking limited ETC

⁷ See 47 CFR § 54.201(b).

⁸ See 47 U.S.C. § 332(c)(1)(A).

⁹ 47 U.S.C. § 214(e)(1)(A).

designation to participate in the Lifeline program.¹⁰ The Commission conditioned blanket forbearance on the petitioner's compliance with certain ETC obligations including: providing 911 and E911 service regardless of activation status and prepaid minutes available, providing E911-compliant handsets and replacing non-compliant handsets, at no charge to the consumer, for Lifeline customers upon the effective date of the *Lifeline Reform Order*.¹¹ In addition, petitioners are required to file, and have approved, a compliance plan which includes specific information about the petitioner's service offerings and outlines the measures the petitioner will take to implement the obligations established in the *Lifeline Reform Order* as well as other measures to prevent waste, fraud and abuse that the Commission may deem necessary.¹² Assist commits to complying with these conditions. To this end, Assist has submitted for review, on June 29, 2012, an initial Compliance Plan, and on September 27, 2012 and December 12, 2012, revised Compliance Plans that meet the requirements of the *Lifeline Reform Order*.¹³ Consequently, Assist is not required to meet the "own facilities" requirement of Section 214(e)(1)(A).

*c) Assist certifies it will comply with the service requirements applicable to the support the Company receives.*¹⁴

Assist provides all of the telecommunications service supported by the Lifeline program¹⁵ and will make the services available to all qualified consumers throughout the Federal

¹⁰ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, 26 FCC Rcd 6656, ¶ 368 (2012) ("*Lifeline Reform Order*").

¹¹ *Id.*, ¶ 373.

¹² *Id.*, ¶ 368.

¹³ Assist's December 12, 2012 Revised Compliance Plan is attached hereto as Exhibit B.

¹⁴ See 47 C.F.R. § 54.202(a)(1).

¹⁵ See 47 C.F.R. § 54.201(d)(1).

REDACTED FOR PUBLIC INSPECTION

Jurisdiction States. The Company seeks designation as an ETC to provide Lifeline services in the rural and non-rural study areas provided in Exhibit C. Assist understands that its service area includes the service areas of several rural carriers, however, the public interest factors discussed below, and the Commission's precedent in granting ETC designation in such areas justifies this designation as an ETC for purposes only of participation in the Lifeline program.

The Company's services include voice telephony services that provide voice grade access to the public switched network or its functional equivalent. Further, Assist's service offerings provide its customers with minutes of use for local service at no charge to the customer. Assist's current Lifeline offerings include two packages available at no charge to the consumer: (1) 150 anytime minutes per month with one text per airtime minute (send and receive) and rollover of unused minutes each month; and (2) 250 anytime minutes with one text per airtime minute (send and receive) and no rollover of unused minutes. Consumers can purchase bundles of additional minutes of service in denominations of: \$5 (60 Minutes/Texts); \$10 (200 Minutes/Texts); \$15 (300 Minutes/Texts), \$20 (400 Minutes/Texts); \$25 (500 Minutes/Texts); \$30 (600 Minutes/Texts); and \$50 (1300 Minutes/Texts). Assist's offerings for residents of Tribal Lands include 1,000 or unlimited anytime minutes each month. Text messaging, at a rate of one text per airtime minute (send and receive) is available with the 1,000 minute plan. Additional information regarding the Company's plans, rates and services can be found on its website at www.assistwireless.com

In addition to free voice services, the Company's Lifeline plan offerings will include a free handset and free custom calling features including voicemail, caller ID, and call waiting. All plans include domestic long-distance at no additional per minute charge. The Company also will provide access to emergency services provided by local government or public

REDACTED FOR PUBLIC INSPECTION

safety officials, including 911 and E911 where available and will comply with any Commission requirements regarding E911-compatible handsets. As discussed above, Assist will comply with the Commission's forbearance grant conditions relating to the provision of 911 and E911 services and handsets.

Finally, the Company will not provide toll limitation service ("TLS"). Assist, like most wireless carriers, does not differentiate domestic long distance toll usage from local usage and all usage is paid for in advance. Pursuant to the *Lifeline Reform Order*, subscribers to such services are not considered to have voluntarily elected to receive TLS.¹⁶

d) *Assist has the ability to remain functional in emergency situations.*¹⁷

As discussed in more detail above, Assist utilizes the Sprint and Verizon Wireless networks to provide Assist's mobile services. The Company has access to the extensive and well-established Sprint and Verizon Wireless networks and facilities and believes that these networks are capable of managing traffic spikes that may occur during emergency situations and can reroute traffic in the event of damaged facilities. Assist also has reason to believe that Sprint and Verizon Wireless have sufficient back-up power to ensure functionality if their external power supplies are unavailable.

e) *Assist will satisfy applicable consumer protection and service quality standards.*¹⁸

Section 54.202(a)(3) of the Commission's rules states that a wireless applicant's commitment to comply with the Cellular Telecommunications and Internet Association's Consumer Code for Wireless Service ("CTIA Consumer Code") will satisfy this consumer

¹⁶ See *Lifeline Reform Order*, ¶ 230.

¹⁷ See 47 C.F.R. § 54.202(a)(2).

¹⁸ See 47 C.F.R. § 54.202(a)(3)

REDACTED FOR PUBLIC INSPECTION

protection and service quality requirement. Assist intends to fully comply with applicable consumer protection requirements and commits to comply with the CTIA Consumer Code. Assist agrees to comply with the CTIA Consumer Code to ensure it offers its subscribers the highest level of protection and quality service. Assist's pledge to provide quality service and voluntarily to comply with this code evidences its commitment to satisfying all of the applicable consumer protection and service quality standards.

f) *Assist is financially and technically capable of providing Lifeline services in compliance with the Commission's rules.*

Revised Commission rule 54.202(a)(4), 47 C.F.R. 54.202(a)(4), requires ETC Petitioners to demonstrate financial and technical capability to comply with the Commission's Lifeline service requirements.¹⁹ Among the factors the Commission will consider are: a Petitioner's prior offering of service to non-Lifeline subscribers, the length of time the Petitioner has been in business, whether the Petitioner relies exclusively on Lifeline reimbursement to operate; whether the Petitioner receives revenues from other sources and whether the Petitioner has been the subject of an enforcement action or ETC revocation proceeding. As discussed in Section II *supra*, Assist has been designated as a wireless ETC in four states and has been providing wireless Lifeline service since January 2011. Assist's key management personnel have over 40 years combined experience in the telecommunications industry, including association with New Talk, Inc., a provider of landline phone services to 25,000 customers in Texas. Assist and its customers have and will continue to benefit from the experience and capabilities of its management team, which draws upon its extensive background in the telecommunications industry.

¹⁹ *Lifeline Reform Order*, ¶¶ 387-388 (revising Commission rule 54.202(a)(4)).

REDACTED FOR PUBLIC INSPECTION

Assist Wireless also is financially stable and fully capable of honoring its service obligations to customers, as well as federal regulatory obligations. Although Assist Wireless derives revenues from the sale of Lifeline services, the Company does not rely exclusively on USF disbursements to operate. For example, the Company derives additional revenue from the sale of wireless services beyond its free Lifeline offerings, including the sale of replenishment airtime minutes, and the sale of optional service packages (*e.g.*, Internet and SMS text services).

Finally, Assist Wireless has not been subject to any enforcement action or ETC revocation proceeding in any state.

(g) *Terms and conditions of Assist's voice telephony service plans for Lifeline subscribers.*²⁰

As noted in Section III(c), *supra*, Assist offers Lifeline subscribers a variety of voice telephony service plans. Assist's Lifeline service offerings provide subscribers, at no monthly charge, with (1) 150 anytime minutes per month with one text per airtime minute (send and receive) and rollover of unused minutes each month; or (2) 250 anytime minutes with one text per airtime minute (send and receive) and no rollover of unused minutes. Consumers can purchase bundles of additional minutes of service in denominations of: \$5 (60 Minutes/Texts); \$10 (200 Minutes/Texts); \$15 (300 Minutes/Texts), \$20 (400 Minutes/Texts); \$25 (500 Minutes/Texts); \$30 (600 Minutes/Texts); and \$50 (1300 Minutes/Texts). Assist's offerings for residents of Tribal Lands include 1,000 or unlimited anytime minutes each month. Text messaging, at a rate of one text per airtime minute (send and receive) is available with the 1,000 minute plan. Additional information regarding the Company's plans, rates and services can be found on its website at www.assistwireless.com

²⁰ 47 C.F.R. § 54.202(a)(5).

REDACTED FOR PUBLIC INSPECTION

h) *Assist will comply with the additional ETC obligations.*

Assist is aware of the Commission's current requirements regarding certification and verification of a customer's qualification for Lifeline service and has implemented procedures to ensure the requirements are met. As described in Assist's Compliance Plan, initially filed on June 29, 2012 and recently revised in filings submitted on September 27, 2012 and December 12, 2012, Assist has detailed and comprehensive procedures in place to address customer certification and verification requirements as well as those requirements addressing de-enrollment and duplication of service. These procedures comply with the Commission's recently-revised customer certification and verification requirements.²¹ Assist also will comply with the annual certification and reporting requirements and the Commission's measures to prevent waste, fraud and abuse of Lifeline services.²²

Assist does not collect service deposits for its plans and does not charge a number-portability fee, and will not do either for Lifeline accounts.²³ Assist timely pays all applicable federal, state, and local regulatory fees, including universal service and E911 fees.

(i) *Assist advertises the availability of its service and charges in a manner reasonably designed to reach Lifeline-eligible consumers and will comply with the Commission's revised rules regarding information to be included in advertisements.*²⁴

Assist will advertise its Lifeline services using media of general distribution,²⁵ as a means of reaching those consumers that are likely to qualify for Lifeline services.²⁶ The

²¹ See 47 C.F.R. § 54.410.

²² See 47 C.F.R. §§ 54.416, 54.422; See also *In re: Telecommunications Carriers Eligible for Universal Service Support; Virgin Mobile USA, L.P. Petition for Designation as an Eligible Telecommunications Carrier in the State of Alabama, et al.*, 25 FCC Rcd 17797, ¶ 24 (2010) ("2010 Virgin Mobile ETC Order").

²³ See 47 C.F.R. § 54.401(c), (e).

²⁴ 47 C.F.R. § 54.405(b).

REDACTED FOR PUBLIC INSPECTION

Company will use these advertising media to advertise the availability of its services to Lifeline customers and will expand its advertising efforts if necessary to ensure that Lifeline-eligible customers are aware of the service offerings.²⁷ Assist will ensure that all of its Lifeline advertising materials comply with the Commission's revised rule section 54.405(c). Specifically, Assist's advertising materials will state, in easily understood language, that: (i) the service is a Lifeline service; (ii) Lifeline is a government assistance program; (iii) the service may not be transferred to someone else; (iv) consumers must meet certain eligibility requirements before enrolling in the Lifeline program; (v) the Lifeline program permits only one Lifeline discount per household; (vi) what documentation is necessary for enrollment; (vii) Assist is the provider of the services; and (viii) the Company's application/certification form will state that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program.

Assist sets up enrollment operations with permission at public events and in local neighborhood parking lots or street corners where eligible Lifeline customers are likely to be located. In addition, Assist Wireless has worked closely with government agencies and Tribal authorities to set up Assist enrollment stations at such locations. This includes public housing locations and food stamp offices. Finally, Assist offers service and enrolls customers at various storefronts.

IV. THE PUBLIC INTEREST WILL BENEFIT FROM GRANTING ETC STATUS TO ASSIST

The Commission's rules require that, before granting a request for ETC designation, the Commission must find that grant of the designation would be in the public

²⁵ 47 U.S.C. § 214(e)(1)(B), 47 C.F.R. § 54.201(d)(2).

²⁶ See 47 C.F.R. § 54.405(b).

²⁷ *Id.*

interest.²⁸ In determining if the public interest showing has been met, the Commission considers the “benefits of increased consumer choice and the unique advantages and disadvantages of the applicant’s service offering.”²⁹ In addition, the principal goal of the Lifeline program is to make affordable telecommunications services available to low-income consumers.³⁰

Similar to the Commission’s findings justifying grant of ETC designation to other petitioners, designation of Assist as an ETC for Lifeline purposes will further the Commission’s goals for the Lifeline program. Specifically, the Company will offer free and low-cost prepaid wireless service to low-income consumers thereby increasing consumer choice by enabling the entry of a provider offering affordable telecommunications services to low-income consumers.³¹ In addition, increasing consumer choice will spur wireless ETC providers to compete for eligible customers by providing the highest value (e.g., higher quality handsets, customer service, etc.).

Further, grant of the application will provide consumers with access to high quality service and the benefits of a mobile service.³² The mobility of the service will be particularly attractive to Lifeline-eligible consumers who may frequently change residences or work in migratory jobs. Wireless service therefore offers a stable contact method where traditional landline service would be unavailable or is simply not the best option for the consumer. Assist’s prepaid wireless service is an especially attractive option for low-income

²⁸ See 47 C.F.R. § 54.202(b).

²⁹ See, e.g., *2010 Virgin Mobile ETC Order*, ¶ 6.

³⁰ See, e.g., *Lifeline and Link-Up*, Report and Order and Further Notice of Proposed Rulemaking, 19 FCC Rcd 8302 (2004).

³¹ See, e.g., *Virgin Mobile USA, L.P. Petition for Forbearance from 47 USC §214(e)(1)(A)*, Order, FCC 09-18, ¶ 38 (rel. March 5, 2009) (“2009 Virgin Mobile Forbearance/ETC Order”).

³² *2009 Virgin Mobile Forbearance/ETC Order*, ¶ 38. As discussed above, Assist will comply with the Consumer Code for Wireless Service of CTIA – The Wireless Association.

consumers because it alleviates customer concerns regarding hidden costs, varying monthly charges and long term contract issues.

In the current economy, many consumers are faced with making difficult choices about how to allocate and spend their limited resources. The ability to meet their communications needs while at the same time anticipating and controlling the associated costs is critical. Assist's free and low-cost prepaid service offerings and affordable rechargeable mobile phone plans enable customers to tailor their wireless services to their needs and budgets and the prepaid nature of the service also provides an alternative for "unbanked" consumers. Further, Assist does not impose credit checks thereby providing an alternative for those low-income consumers unable to obtain credit for post-paid services provided by traditional carriers.

Assist's free and low-cost prepaid mobile calling service packages provide low-income consumers with a generous number of anytime minutes at little or no cost to the consumers as well as free voicemail, Call Waiting, Caller ID and calls to 911 services. The generous number of included "free" anytime minutes and free features are an invaluable resource for cash-strapped consumers who may be seeking employment and need a means to contact potential employers. The packages are also useful for those consumers that need the ability to stay in touch with children or other family members as well as to contact 911 emergency services when needed. Assist's services will provide consumers with a valuable alternative for obtaining telephone service and this competition in turn could spur other service providers to improve their service options.

V. ANTI-DRUG ABUSE CERTIFICATION

Assist certifies that no party to this Petition is subject to a denial of federal benefits that includes Commission benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.

VI. CONCLUSION

For the foregoing reasons, Assist asserts that grant of the instant Petition for Limited Designation as an Eligible Telecommunications Carrier is in the public interest and is warranted in accordance with 47 U.S.C. § 214(e)(6) of the Act.

Respectfully submitted,



John J. Heitmann
Denise N. Smith
Kelley Drye & Warren LLP
3050 K Street, NW
Suite 400
Washington, D.C. 20007
(202) 342-8400

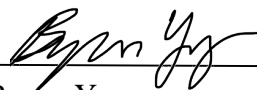
Counsel to Assist Wireless, LLC

Dated: January 4, 2013

DECLARATION

I, Byron Young, Chief Executive Officer, of Assist Wireless, LLC do hereby affirm under penalty of perjury that I have reviewed all of the factual assertions set forth in the foregoing petition for Eligible Telecommunications Carrier status and that all such statements made therein are true and correct to the best of my knowledge, information and belief.

To the best of my knowledge, no party to this Petition, nor any of their officers, directors, or persons holding five percent or more of the outstanding stock or shares (voting or non-voting) as specified in Section 1.2002(b) of the Commission's rules are subject to denial of federal benefits, including Commission benefits, pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988, 21 U.S.C. § 862.


Byron Young

Chief Executive Officer

Executed on 12/27/12

REDACTED FOR PUBLIC INSPECTION

EXHIBIT A

Alabama Public Service Commission

Orders

**PINE BELT CELLULAR, INC. and PINE
BELT PCS, INC.,**

Joint Petitioners

**PETITION: For ETC status and/or
clarification regarding the jurisdiction of
the Commission to grant ETC status to
wireless carriers.**

DOCKET U-4400

ORDER

BY THE COMMISSION:

In a joint pleading submitted on September 11, 2001, Pine Belt Cellular, Inc. and Pine Belt PCS, Inc. (collectively referred to as "Pine Belt") each notified the Commission of their desire to be designated as universal service eligible telecommunications carriers ("ETCs") for purposes of providing wireless ETC service in certain of the non-rural Alabama wireline service territories of BellSouth Telecommunications, Inc. ("BellSouth") and Verizon South, Inc. ("Verizon"). The Pine Belt companies noted their affiliation with Pine Belt Telephone Company, a provider of wireline telephone service in rural Alabama, but clarified that they exclusively provide cellular telecommunications and personal communications (collectively referred to as "CMRS" or "wireless") services in their respective service areas in Alabama in accordance with licenses granted by the Federal Communications Commission ("FCC"). The pivotal issue raised in the joint pleading of Pine Belt companies is whether the Commission will assert jurisdiction in this matter given the wireless status of the Pine Belt companies.

As noted in the filing of the Pine Belt companies, state Commissions have primary responsibility for the designation of eligible telecommunications carriers in their respective jurisdictions for universal service purposes pursuant to 47 USC §214(e). The Commission indeed established guidelines and requirements for attaining ETC status in this jurisdiction pursuant to notice issued on October 31, 1997.

For carriers not subject to state jurisdiction, however, §214(e)(6) of the Telecommunications Act of 1996 provides that the FCC shall, upon request, designate such carriers as ETCs in non-rural

service territories if said carriers meet the requirements of §214(e)(1). In an FCC Public Notice released December 29, 1997 (FCC 97-419) entitled "Procedures for FCC designation of Eligible Telecommunications Carriers pursuant to §214(e)(6) of the Telecommunications Act", the FCC required each applicant seeking ETC designation from the FCC to provide, among other things, "a certification and brief statement of supporting facts demonstrating that the Petitioner is not subject to the jurisdiction of a state Commission."

The Pine Belt companies enclosed with their joint pleading completed ETC application forms as developed by the Commission. In the event the Commission determines that it does not have jurisdiction to act on the Pine Belt request for ETC status, however, the Pine Belt companies seek an affirmative written statement from the Commission indicating that the Commission lacks jurisdiction to grant them ETC status as wireless carriers.

The issue concerning the APSC's jurisdiction over providers of cellular services, broadband personal communications services, and commercial mobile radio services is one that was rather recently addressed by the Commission. The Commission indeed issued a Declaratory Ruling on March 2, 2000, in Docket 26414 which concluded that as the result of certain amendments to the Code of Alabama, 1975 §40-21-120(2) and (1)(a) effectuated in June of 1999, the APSC has no authority to regulate, *in any respect*, cellular services, broadband personal communications services and commercial mobile radio services in Alabama. Given the aforementioned conclusions by the Commission, it seems rather clear that the Commission has no jurisdiction to take action on the Application of the Pine Belt companies for ETC status in this jurisdiction. The Pine Belt companies and all other wireless providers seeking ETC status should pursue their ETC designation request with the FCC as provided by 47 USC §214(e)(6).

IT IS, THEREFORE, ORDERED BY THE COMMISSION, That the Commission's jurisdiction to grant Eligible Telecommunications Carrier status for universal service purposes does not extend to providers of cellular services, broadband personal communications services, and commercial mobile radio services. Providers of such services seeking Eligible Telecommunications Carrier status should accordingly pursue their requests through the Federal Communications Commission.

IT IS FURTHER ORDERED, That this Order shall be effective as of the date hereof.

DONE at Montgomery, Alabama, this 12th day of March, 2002.

ALABAMA PUBLIC SERVICE COMMISSION

Jim Sullivan, President

Jan Cook, Commissioner

George C. Wallace, Jr., Commissioner

ATTEST: A True Copy

Walter L. Thomas, Jr., Secretary



STATE OF CONNECTICUT
DEPARTMENT OF PUBLIC UTILITY CONTROL

May 25, 2012

In reply please refer to:
UR:Undocketed:PAP

John J. Heitmann
Joshua T. Guyan
Kelley Drye & Warren LLP
Washington Harbour, Suite 400
3050 K Street, NW
Washington, D.C. 20007-5108

Re: Request for a Letter Confirming Lack of Jurisdiction Over Wireless Eligible
Telecommunications Carrier Petitions

Dear Messrs Heitmann and Guyan:

The Public Utilities Regulatory Authority (Authority) is in receipt of your March 28, 2012 letter concerning the Authority's jurisdiction over wireless mobile carrier services' rates and charges.

The Authority does not regulate or license wireless carrier services' rates and charges per the Federal Omnibus Budget Act of 1993. Therefore, all applications for eligible telecommunications carriers' status for wireless providers should be made to the Federal Communications Commission.

Sincerely,

DEPARTMENT OF ENERGY AND ENVIRONMENTAL PROTECTION
PUBLIC UTILITIES REGULATORY AUTHORITY

Kimberley J. Santopietro
Executive Secretary

BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF DELAWARE

IN THE MATTER OF THE APPLICATION OF)
VERIZON DELAWARE INC., TO MODIFY THE)
LIFELINE SERVICE BY ADDING AN INCOME) PSC DOCKET NO. 05-016T
QUALIFIER TO THE ELIGIBILITY CRITERIA)
(FILED JUNE 17, 2005))

ORDER NO. 6736

This 11th day of October, 2005, the Commission determines and Orders the following:

1. In the jargon of the federal Lifeline/Link-Up program, Delaware is a "federal default State." Delaware has never, by either state law or state regulation, ordained, nor funded, a stand-alone program to provide discounts on basic telephone services charges for low-income subscribers. Consequently, it was not until 1997, when the Federal Communications Commission ("FCC") revamped the federal Lifeline/Link-Up program, that Delaware subscribers first became eligible for participation in the federal Lifeline program.¹ And given that in a "federal default State" only federally-raised monies are used to reimburse eligible carriers for the Lifeline and Link-Up discounts, it is the FCC, and not the state commission, that gets to call the tune about who should be eligible to receive these federally-subsidized price reductions.

2. Since 1997, Verizon Delaware Inc. ("VZ-DE") has been designated as an "eligible telecommunications carrier" and has offered

¹See PSC Order No. 4684 (Dec. 16, 1997) (summarizing Delaware history and electing to allow "Tier 2" federal support to eligible Delaware subscribers).

federal Lifeline discounts on the federal list of supported services.² And even though in "default" States, Lifeline is almost an exclusively federal program, VZ-DE has, since 1997, filed at the State level, tariff provisions setting forth its Lifeline offerings.³

3. In 2004, the FCC changed some of the "eligibility" rules describing which subscribers may participate in the federal Lifeline/Link-Up program.⁴ In particular, the 2004 amendments added additional programs to the list of "eligible" programs where participation confers federal default Lifeline/Link-Up eligibility.⁵ The 2004 amendments also introduced an additional eligibility criteria premised on the subscriber's household income.⁶ Eligible telecommunications carriers, such as VZ-DE, were given one year to implement this new, additional income-based eligibility criteria.⁷

4. To implement these changes prescribed by the FCC, VZ-DE initially filed revisions to the Lifeline and Link-Up portions of its

²See PSC Order No. 4680 (Dec. 17, 1997) ("ETC" designation for VZ-DE). See also PSC Dckt. No. 97-023T (initial Lifeline tariff filing by VZ-DE).

³From December 2000 through December 2003, VZ-DE offered, under its state tariff, an "expanded" Lifeline program for Delaware. The discounts under such program exceeded the Tiers 1 & 2 levels normally available in a default State. VZ-DE offered this expanded program to fulfill a condition imposed by the FCC in approving the Bell Atlantic-GTE merger. See PSC Order No. 6317 (Dec. 9, 2003) (explaining content and cause of this expanded Lifeline offering). Whether Delaware remained a "default State" during this period when VZ-DE subsidized the deeper discounts is an issue that need now be explored or resolved. This "expanded" program ended in December 2003.

⁴In the Matter of Lifeline and Link-Up, Report and Order and Further NPRM, 19 FCC Rcd. 8302 (FCC 2004) ("Lifeline Order").

⁵47 C.F.R. §§ 54.409(b) (Lifeline eligibility criteria in "default" State); 54.415(b) (Link-Up eligibility criteria in "default" State).

⁶47 C.F.R. §§ 54.409(b), 54.410 (Lifeline); 54.415(b), 54.416 (Link-Up).

⁷47 C.F.R. §§ 54.410(a)(ii), 54.416.

State tariff. These changes incorporated into the State tariff provisions the expanded list of "eligibility-conferring" programs.⁸ At the same time, the Commission Staff began discussions with VZ-DE to determine whether, under the applicable federal default rules, it was appropriate for VZ-DE to continue to include in its State tariff Lifeline provisions language that conditioned Lifeline eligibility on the subscriber foregoing the ability to purchase many optional or vertical services.⁹ Eventually, VZ-DE revised its State tariff Lifeline provisions to delete the questioned restrictions.¹⁰ Then in June 2005, VZ-DE filed another Tariff revision to reflect its implementation of the household-income criteria for eligibility for Lifeline and Link-Up discounts.¹¹ Finally, on September 9, 2005, VZ-DE submitted another set of revised tariff sheets reflecting further textual revisions, as originally suggested by Staff. In part, these final changes sought to make the State tariff's description of how VZ-DE would administer its Lifeline/Link-Up program to more closely parallel the governing federal default rules.¹²

⁸See PSC Dckt. No. 04-017T (filed July 26, 2004; eff. July 27, 2004).

⁹That restriction - limiting Lifeline subscribers to a small group of designated vertical services - had been a continual part of VZ-DE's state-tariffed Lifeline offerings since 1997. In its Lifeline Order, the FCC expressed its belief that "any restriction on the purchase of vertical services may discourage qualified consumers from enrolling and may serve as a barrier to participation in the [Lifeline] program. Lifeline Order at ¶ 53.

¹⁰See PSC Dckt. No. 05-008T (filed April 8, 2005; eff. April 16, 2005).

¹¹See PSC Dckt. No. 05-016T (filed June 17, 2005; eff. June 22, 2005).

¹²See PSC Dckt. No. 05-016T, amended tariff sheets filed on September 9, 2005 but with effective date of June 22, 2005).

5. The Commission enters this Order not so much to "approve" the various Lifeline filings made by VZ-DE but to recount the course of the filings made since the FCC changed its federal Lifeline/Link-Up program in 2004. Indeed, given that Delaware is a "default" State, VZ-DE's Lifeline/Link-Up offerings are governed more by the federal default rules than by any "approved" State tariff provision. Any State tariff provision that might conflict with a federal default rule would necessarily have to yield. However, the Commission will accept the Lifeline and Link-Up tariff filings lodged by VZ-DE. The Commission believes that VZ-DE's last submission (in September 2005) sets forth a Lifeline and Link-Up offering that is consistent with the federal default rules. However, the filing and acceptance of the State tariff provisions should not be seen as foreclosing any later challenge that VZ-DE's program falls short of the federal directives.

Now, therefore, **IT IS ORDERED:**

1. That, as explained in the body of this Order, the Commission accepts the tariff filings made by Verizon Delaware Inc., to implement its responsibilities to provide federal Lifeline and Link-Up in this "federal default" jurisdiction. In particular, the Commission now accepts the tariff revision filing made September 9, 2005 pertaining to the following leaves in P.S.C.-Del.-No. 1:

Section 20D, Fourteenth Revised Sheet 1 (Link-Up);

Section 20D, Fifth Revised Sheet 2 (Link-Up); and

Section 20E, Eighth Revised Sheet 2 (Lifeline).

2. That the Commission reserves the jurisdiction and authority to enter such further Orders in this matter as may be deemed necessary or proper.

BY ORDER OF THE COMMISSION:

/s/ Arnetta McRae
Chair

Vice Chair

/s/ Joann T. Conaway
Commissioner

/s/ Jaymes B. Lester
Commissioner

/s/ Dallas Winslow
Commissioner

ATTEST:

/s/ Norma J. Sherwood
Acting Secretary



Public Service Commission of the District of Columbia
1333 H Street, N.W., 2nd Floor, West Tower
Washington, D.C. 20005
(202) 626-5100
www.depsc.org

March 27, 2012

Via First Class Mail

John J. Heitmann and Joshua T. Guyan
Kelley Drye & Warren LLP
Washington Harbour Suite 400
3050 K Street, NW
Washington, DC 20007-5108

Dear Mr. Heitmann and Mr. Guyan:

Thank you for your March 23, 2012 letter requesting information on whether the Public Service Commission of the District of Columbia ("Commission") designates wireless telecommunications carriers as eligible telecommunications carriers ("ETC") for the purposes of receiving federal universal service funding. Please be advised that, pursuant to section 34-2006(b) of the District of Columbia Code, the Commission does not have jurisdiction over wireless carriers. Thus, the Commission has no authority to designate wireless telecommunications carriers as ETCs.

Attached please find a copy of the relevant section of the District of Columbia Code for your information. Should you need anything further, please contact Lara Walt at 202-626-9191 or lwalt@psc.dc.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Richard A. Beverly".

Richard A. Beverly
General Counsel

Enclosure

[D.C. Council Home](#)[Home](#) [Search](#) [Help](#) ©

Welcome to the online source for the District of Columbia Official Code

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

DC ST § 34-2006

Formerly cited as DC ST 1981 § 43-1456

District of Columbia Official Code 2001 Edition [Currentness](#)

Division V. Local Business Affairs

Title 34. Public Utilities.

[Subtitle V. Telecommunications.](#)

[Chapter 20. Telecommunications Competition.](#)

→§ 34-2006. Exemptions.

(a) This chapter shall not apply to cable television services performed pursuant to an existing cable television franchise agreement with the District of Columbia which is in effect on September 9, 1996. To the extent that a cable television company seeks to provide local exchange services within the District of Columbia, such company shall be regulated under the provisions of this chapter for their local exchange services.

(b) Pursuant to the federal Telecommunications Act of 1996, this chapter shall not apply to licensed or unlicensed wireless services authorized by the Federal Communications Commission operating in the District of Columbia.

(c) This chapter shall not:

(1) Apply to the provision, rates, charges, or terms of service of Voice Over Internet Protocol Service or Internet Protocol-enabled Service;

(2) Alter the authority of the Commission to enforce the requirements as are otherwise provided for, or allowed by, federal law, including the collection of Telecommunications Relay Service fees and universal service fees;

(3) Alter the authority of the Office of Cable Television and Telecommunications with respect to the provision of video services in the District of Columbia; or

(4) Alter the Commission's existing authority over the regulation of circuit-switched local exchange services in the District of Columbia.

CREDIT(S)

(Sept. 9, 1996, D.C. Law 11-154, § 7, 43 DCR 3736; June 5, 2008, D.C. Law 17-165, § 3(c), 55 DCR 5171.)

HISTORICAL AND STATUTORY NOTES

Prior Codifications

1981 Ed., § 43-1456.

Effect of Amendments

D.C. Law 17-165 added subsec. (c).

Legislative History of Laws

For legislative history of D.C. Law 11-154, see Historical and Statutory Notes following § 34-2001.

For Law 17-165, see notes following § 34-403.

References in Text

The federal Telecommunications Act of 1996, referred to in (b), is Pub. L. 104-104, which is codified throughout Title 47 of the United States Code.

DC CODE § 34-2006

Current through January 11, 2012

Copyright (C) 2012 By the District of Columbia. All Rights Reserved.

END OF DOCUMENT

© 2012 Thomson Reuters. No Claim to Orig. U.S. Govt. Works.

Docs In Sequence

Westlaw, part of Thomson Reuters
[© 2012 West](#) | [Privacy](#) | [Accessibility](#)



COMMISSIONERS:
ART GRAHAM, CHAIRMAN
LISA POLAK EDGAR
RONALD A. BRISÉ
EDUARDO E. BALBIS
JULIE I. BROWN

STATE OF FLORIDA



GENERAL COUNSEL
S. CURTIS KISER
(850) 413-6199

Public Service Commission

October 24, 2011

Ms. Kasey C. Chow
Lance J.M. Steinhart, P.C.
Attorney At Law
1725 Windward Concourse
Suite 150
Alpharetta, GA 30005


Re: Undocketed – Q Link Wireless LLC's ETC Designation

Dear Ms. Chow:

We received your October 18, 2011 letter advising that Q Link Wireless LLC, a commercial mobile radio service provider, wish to seek designation as an ETC in Florida. You also requested an affirmative statement that the Florida Public Service Commission no longer assert jurisdiction to designate commercial mobile radio service providers as eligible telecommunication carriers in Florida.

This letter acknowledges that the revisions to Chapter 364, Florida Statutes, changed the Commission's jurisdiction regarding telecommunications companies. I direct your attention to Chapter 364, Florida Statutes, for the proposition that the Federal Communications Commission, rather than this Commission is the appropriate agency to consider Q Link Wireless LLC's bid for ETC status.

Sincerely,


S. Curtis Kiser
General Counsel

cc: Beth W. Salak, Director, Division of Regulatory Analysis
Robert J. Casey, Public Utilities Supervisor, Division of Regulatory Analysis
Adam J. Teitzman, Attorney Supervisor, Office of the General Counsel
Ann Cole, Commission Clerk, Office of Commission Clerk

THE STATE OF NEW HAMPSHIRE

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION
21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

March 28, 2011

RE: ETC Certification in New Hampshire

The federal Universal Service Fund (USF) was created by the Federal Communications Commission (FCC) to promote the availability of quality services at just and reasonable rates to all consumers including low-income customers and those in high cost areas and to increase nationwide access to advanced services in schools, libraries and rural health care facilities. To qualify for universal service funding a carrier must first be certified as an Eligible Telecommunications Carrier (ETC) by the state public utilities commission or, if the state does not assert this authority, by the FCC. *See* 47 U.S.C. §214 (e).

The New Hampshire Public Utilities Commission maintains authority to determine whether landline telecommunications carriers qualify as ETCs. Pursuant to New Hampshire RSA 362:6, the Commission has no jurisdiction over mobile radio communications services. Consequently, the state declines jurisdiction over the certification of wireless carriers as ETCs, leaving that responsibility to the FCC.

Sincerely,

A handwritten signature in black ink, appearing to read "F. Anne Ross".

F. Anne Ross

General Counsel

New Hampshire Public Utilities Commission

STATE OF NEW YORK DEPARTMENT OF PUBLIC SERVICE

THREE EMPIRE STATE PLAZA, ALBANY, NY 12223-1350

www.dps.state.ny.us

PUBLIC SERVICE COMMISSION

GARRY A. BROWN

Chairman

PATRICIA L. ACAMPORA

MAUREEN F. HARRIS

ROBERT E. CURRY JR.

JAMES L. LAROCCA

Commissioners



PETER McGOWAN

General Counsel

JACLYN A. BRILLING

Secretary

October 28, 2010

TO WHOM IT MAY CONCERN:

Re: Boomerang Wireless CMRS Jurisdiction

We have received a letter from Boomerang Wireless, LLC d/b/a Ready Mobile (Boomerang Wireless), requesting a statement that the New York State Public Service Commission does not exercise jurisdiction over CMRS providers for the purpose of making determinations regarding Eligible Telecommunications Carrier designations under section 214 (e)(6) of 47 U.S.C. In response to this request, please be advised that section 5 (6)(a) of the New York State Public Service Law provides that:

Application of the provisions of this chapter to cellular telephone services is suspended unless the commission, no sooner than one year after the effective date of this subdivision, makes a determination, after notice and hearing, that suspension of the application of provisions of this chapter shall cease to the extent found necessary to protect the public interest.

The New York State Public Service Commission has not made a determination as of this date that regulation should be reinstituted under section 5 (6)(a) of the Public Service Law. Consequently, based on the representation by Boomerang Wireless that it provides wireless service in New York over its own facilities and Sprint's network, the company would not be subject to New York State Public Service Commission jurisdiction for the purpose of making an Eligible Telecommunications Carrier designation.

Very truly yours,

Maureen J. McCauley
Maureen J. McCauley
Assistant Counsel

**STATE OF NORTH CAROLINA
UTILITIES COMMISSION
RALEIGH**

DOCKET NO. P-100, SUB 133c

BEFORE THE NORTH CAROLINA UTILITIES COMMISSION

In the Matter of
Designation of Carriers Eligible for Universal)
Carrier Support) ORDER GRANTING PETITION

BY THE COMMISSION: On August 22, 2003, North Carolina RSA3 Cellular Telephone Company, d/b/a Carolina West (Carolina West), a commercial mobile radio service (CMRS) provider, filed a Petition seeking an affirmative declaratory ruling that the Commission lacks jurisdiction to designate CMRS carrier eligible telecommunications carrier (ETC) status for the purposes of receiving federal universal service support.

In support of its Petition, Carolina West stated that it was a CMRS provider authorized by the Federal Communications Commission (FCC) to provide cellular mobile radio telephone service in North Carolina, and that the FCC had clearly recognized that CMRS carriers such as Carolina West may be designated as ETCs. ETC status is necessary for a provider to be eligible to receive universal service support. Section 214(e)(6) of the Telecommunications Act provides that if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC is charged with making the ETC determination. The FCC has stated that, in order for the FCC to consider requests pursuant to this provision, a carrier must provide an "affirmative statement" from the state commission or court of competent jurisdiction that the state lacks jurisdiction to perform the designation. To date, several state commissions have declined to exercise such jurisdiction.

North Carolina has excluded CMRS from the definition of "public utility." See, G.S. 62-3(23)j. Pursuant to this, the Commission issued its Order Concerning Deregulation of Wireless Providers in Docket Nos. P-100, Sub 114 and Sub 124 on August 28, 1995, concluding that the Commission no longer has jurisdiction over cellular services. Accordingly, Carolina West has now requested the Commission to issue an Order stating that it does not have jurisdiction to designate CMRS carriers ETC status for the purposes of receiving federal universal service support.

WHEREUPON, the Commission reaches the following

CONCLUSIONS

After careful consideration, the Commission concludes that it should grant Carolina West's Petition and issue an Order stating that it lacks jurisdiction to designate ETC status

for CMRS carriers. As noted above, in its August 28, 1995, Order in Docket Nos. P-100, Sub 114 and Sub 124, the Commission observed that G.S. 62-3(23)j, enacted on July 29, 1995, has removed cellular services, radio common carriers, personal communications services, and other services then or in the future constituting a mobile radio communications service from the Commission's jurisdiction. 47 USC 3(41) defines a "state commission" as a body which "has regulatory jurisdiction with respect to the intrastate operation of carriers." Pursuant to 47 USC 214(e)(6), if a state commission determines that it lacks jurisdiction over a class of carriers, the FCC must determine which carriers in that class may be designated as ETCs. Given these circumstances, it follows that the Commission lacks jurisdiction over CMRS services and the appropriate venue for the designation of ETC status for such services is with the FCC. Accord., Order Granting Petition, ALLTEL Communications, Inc., June 24, 2003.

IT IS, THEREFORE, SO ORDERED.

ISSUED BY ORDER OF THE COMMISSION.

This the 28th day of August, 2003.

NORTH CAROLINA UTILITIES COMMISSION

A handwritten signature in cursive script that reads "Patricia Swenson".

Patricia Swenson, Deputy Clerk

pb082503.01

TENNESSEE REGULATORY AUTHORITY



460 James Robertson Parkway
Nashville, Tennessee 37243-0505

November 3, 2010

Ms. Jacqueline Hankins, Esq.
Helein & Marashlian, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 205
McLean, VA 22102

RE: Request for Letter Clarifying Jurisdiction over Wireless ETC Petitions

Dear Ms. Hankins:

Thank you for your letter sent to Mr. David Foster, Utilities Division Chief, dated October 25, 2010, inquiring about the Tennessee Regulatory Authority's ("Authority") jurisdiction to designate a wireless telecommunications carrier, such as Boomerang Wireless, LLC d/b/a Ready Mobile (f/k/a Boomerang Wireless, Inc., for Eligible Telecommunications Carrier ("ETC") certification in Tennessee. Your letter has been forwarded to me for review and response.

As your letter correctly indicates, the Authority does not assert that its state-delegated authority extends to wireless service providers. As a result, wireless carriers that seek ETC certification to provide such services in Tennessee are advised to file such requests with the Federal Communications Commission in accordance with 47 U.S.C.A. § 214(e)(6). The enclosed *Order Refusing Issuance of Declaratory Ruling*, issued on August 2, 2010,¹ provides detailed analysis of the Authority's wireless jurisdiction.

In Docket No. 02-01245, the Authority acknowledged the FCC's authority to perform ETC designations for carriers not subject to its jurisdiction, and announced that its *Order of April 11, 2003* would serve as an affirmative statement that it lacks jurisdiction to designate ETC certification to wireless carriers.² For your convenience, I have enclosed a copy of the Authority's order in that docket. In addition, you may access these and other

¹ *In re Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee*, Docket No. 10-00083, *Order Refusing Issuance of Declaratory Ruling* (August 2, 2010).

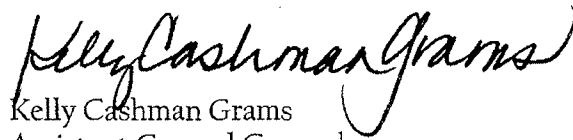
² *In re Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order* (April 11, 2003).

Ms. Jacqueline Hankins, Esq.
Letter Clarifying Wireless Jurisdiction
November 1, 2010
Page 2

Authority dockets, including all public filings and orders, online via the Tennessee Regulatory Authority's website located at <http://www.state.tn.us/tra/>.

I trust that you will find the information provided above to be of assistance and appreciate the opportunity to serve you. In the event you have additional questions or concerns, please feel free to contact me.

Sincerely,

A handwritten signature in cursive script that reads "Kelly Cashman Grams". The signature is written in dark ink and is positioned above the printed name and title.

Kelly Cashman Grams
Assistant General Counsel

cc: David Foster, Utilities Division Chief

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

April 11, 2003

IN RE:

APPLICATION OF ADVANTAGE CELLULAR
SYSTEMS, INC. TO BE DESIGNATED AS AN
ELIGIBLE TELECOMMUNICATIONS CARRIER

DOCKET NO.
02-01245

ORDER

This matter came before Chairman Sara Kyle, Director Deborah Taylor Tate and Director Pat Miller of the Tennessee Regulatory Authority (the "Authority"), the voting panel assigned in this docket, at the regularly scheduled Authority Conference held on January 27, 2003, for consideration of the *Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier* ("Application") filed on November 21, 2002.

Background

Advantage Cellular Systems, Inc. ("Advantage") is a commercial mobile radio service provider ("CMRS") seeking designation as an Eligible Telecommunications Carrier ("ETC") by the Authority pursuant to 47 U.S.C. §§ 214 and 254. In its *Application*, Advantage asserts that it seeks ETC status for the entire study area of Dekalb Telephone Cooperative, Inc., a rural cooperative telephone company. Advantage maintains that it meets all the necessary requirements for ETC status and therefore is eligible to receive universal service support throughout its service area.

The January 27, 2003 Authority Conference

During the regularly scheduled Authority Conference on January 27, 2003, the panel of Directors assigned to this docket deliberated Advantage's *Application*. Of foremost consideration was the issue of the Authority's jurisdiction. The panel unanimously found that the Authority lacked

jurisdiction over Advantage for ETC designation purposes.¹

This conclusion was implicitly premised on Tenn. Code Ann. § 65-4-104, which provides that:

The Authority has general supervisory and regulatory power, jurisdiction and control over all public utilities and also over their property, property rights, facilities, and franchises, so far as may be necessary for the purpose of carrying out the provisions of this chapter.

For purposes of Tenn. Code Ann. § 65-4-104, the definition of public utilities specifically excludes, with certain exceptions not relevant to this case, "[a]ny individual, partnership, copartnership, association, corporation or joint stock company offering domestic public cellular radio telephone service authorized by the federal communications commission."

The Authority's lack of jurisdiction over CMRS providers implicates 47 U.S.C. § 214(e), which addresses the provision of universal service. Where common carriers seeking universal service support are not subject to a state regulatory commission's jurisdiction, 47 U.S.C. § 214(e)(6) authorizes the Federal Communications Commission ("FCC") to perform the ETC designation.²

¹ This finding is not inconsistent with the Authority's decision in *In re: Universal Service Generic Contested Case*, Docket 97-00888, *Interim Order on Phase I of Universal Service*, pp. 53-57 (May 20, 1998), in which the Authority required intrastate telecommunications carriers to contribute to the intrastate Universal Service Fund including telecommunications carriers not subject to authority of the TRA. The decision in Docket No. 97-00888 was based primarily on 47 U.S.C. § 254(f) which authorizes states to adopt regulations not inconsistent with the Federal Communications Commission's rules on Universal Service and specifically requires every telecommunications carrier that provides intrastate telecommunications services to contribute to the preservation and advancement of universal service in that state. The *Interim Order* was issued prior to the effective date of 47 U.S.C. § 214(e)(6).

² 47 U.S.C. § 214(e)(6) states:

(6) Common carriers not subject to state commission jurisdiction

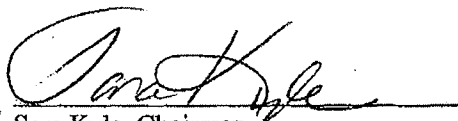
In the case of a common carrier providing telephone exchange service and exchange access that is not subject to the jurisdiction of a State commission, the Commission shall upon request designate such a common carrier that meets the requirements of paragraph (1) as an eligible telecommunications carrier for a service area designated by the Commission consistent with applicable Federal and State law. Upon request and consistent with the public interest, convenience and necessity, the Commission may, with respect to an area served by a rural telephone company, and shall, in the case of all other areas, designate more than one common carrier as an eligible telecommunications carrier for a service area designated under this paragraph, so long as each additional requesting carrier meets the requirements of paragraph (1). Before designating an additional eligible telecommunications carrier for an area served by a rural telephone company, the Commission shall find that the designation is in the public interest.

As a matter of "state-federal comity," the FCC requires that carriers seeking ETC designation "first consult with the state commission to give the state commission an opportunity to interpret state law."³ Most carriers that are not subject to a state regulatory commission's jurisdiction seeking ETC designation must provide the FCC "with an affirmative statement from a court of competent jurisdiction or the state commission that it lacks jurisdiction to perform the designation."⁴

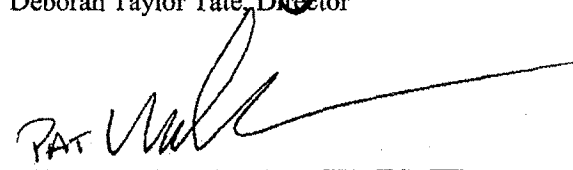
The panel noted that the FCC is the appropriate forum for Advantage to pursue ETC status pursuant to 47 U.S.C. § 214(e)(6). This Order shall serve as the above mentioned affirmative statement required by the FCC.

IT IS THEREFORE ORDERED THAT:

The Application of Advantage Cellular Systems, Inc. To Be Designated As An Eligible Telecommunications Carrier is dismissed for lack of subject matter jurisdiction.


Sara Kyle, Chairman


Deborah Taylor Tate, Director


Pat Miller, Director

³ *In the Matter of Federal-State Joint Bd. on Universal Service*, CC Docket No. 96-45, *Twelfth Report and Order, Memorandum Opinion and Order, and Further Notice of Proposed Rulemaking*, 15 F.C.C.R. 12208, 12264, ¶ 113 (June 30, 2000).

⁴ *See id.* (The "affirmative statement of the state commission may consist of any duly authorized letter, comment, or state commission order indicating that it lacks jurisdiction to perform designations over a particular carrier.")

BEFORE THE TENNESSEE REGULATORY AUTHORITY

NASHVILLE, TENNESSEE

August 2, 2010

IN RE:

**PETITION FOR DECLARATORY RULING
AND NUNC PRO TUNC DESIGNATION OF
NEXUS COMMUNICATIONS AS AN ELIGIBLE
TELECOMMUNICATIONS CARRIER TO
OFFER WIRELESS SERVICE IN TENNESSEE**

)
)
)
)
)
)
)

**DOCKET NO.
10-00083**

ORDER REFUSING ISSUANCE OF DECLARATORY RULING

This matter came before Chairman Sara Kyle, Director Kenneth C. Hill and Director Mary W. Freeman of the Tennessee Regulatory Authority ("Authority" or "TRA"), the voting panel assigned to this docket, at a regularly scheduled Authority Conference held on May 24, 2010, for consideration of the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* ("Petition") filed by Nexus Communications, Inc. ("Nexus") on April 28, 2010.

BACKGROUND & PROCEDURAL HISTORY

On October 18, 2007, Nexus filed with the Authority an application for a Certificate of Public Convenience and Necessity ("CCN") to provide competing facilities-based and resold local telecommunications services in Tennessee.¹ In its application, among other things, Nexus stated that it would be providing service through an interconnection/resale agreement with

¹ See *In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee*, Docket No. 07-00241, *Application of Nexus Communications, Inc. for Authority to Provide Competing Local Exchange & Interexchange Service* (October 18, 2007).

BellSouth Telecommunications, Inc. d/b/a AT&T Tennessee ("AT&T Tennessee") and had no plans to install facilities.² Nexus further agreed to adhere to all Authority policies, rules, and orders and to submit wireline activity reports as required.³ The application, however, makes no mention of Nexus providing wireless service in Tennessee. In an Order dated January 8, 2008, the TRA granted Nexus' application for a CCN, authorizing Nexus to provide competing facilities-based and resold local telecommunications services in Tennessee as described in its application.⁴

On July 11, 2008, Nexus filed an application for designation as an eligible telecommunications carrier ("ETC") with the Authority in Docket No. 08-00119.⁵ In its ETC application, Nexus stated that it was applying for designation in the service territory of AT&T Tennessee and provided a list of the wire centers for which it requested ETC status.⁶ In addition, Nexus stated that it was seeking designation only for low-income support⁷ and affirmed that it satisfied all statutory requirements for designation.⁸ Consistent with its CCN application, Nexus' ETC application also omitted any mention that Nexus provided wireless service or that it intended to provide wireless service as an ETC.

² *Id.* at 1 and 7.

³ *Id.* at 11 and 13.

⁴ See *In re: Application of Nexus Communications, Inc. for a CCN to Provide Competing Local Exchange and Interexchange Telecommunications Services in Tennessee*, Docket No. 07-00241, *Initial Order Granting Certificate of Public Convenience and Necessity* (January 8, 2008).

⁵ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

⁶ *Id.*

⁷ Lifeline and Link Up are two components of the Low Income Program of the Universal Service Fund. The Fund, administered by the Universal Service Administration Company ("USAC"), is designed to ensure that quality telecommunications services are available to low-income customers at just, reasonable and affordable rates. Lifeline support lowers the monthly charge of basic telephone service for eligible consumers. Link Up support reduces the cost of initiating new telephone service. The Federal Communications Commission's rules concerning Lifeline and Link Up are codified at 47 C.F.R. § 54.400-417. See, *Assessment of Payments Made Under the Universal Service Fund's Low Income Program*, 2008 WL 5205212 (2008).

⁸ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Application for Designation as an Eligible Telecommunications Carrier* (July 11, 2008).

Thereafter, the Authority conducted a review of Nexus' qualifications in accordance with the information provided by Nexus in its ETC application. On October 27, 2008, finding the statutory requirements satisfied, the TRA granted Nexus' ETC application and, based thereon, issued an Order designating Nexus as an ETC in the Tennessee service area footprint of AT&T Tennessee.⁹ As designated by a state commission, like the TRA, Nexus' ETC designation enables it to receive federal low-income universal service support funding in accordance with, and subject to, the authority of the state commission to grant such designation under both state and federal law.¹⁰

Subsequently, on March 23, 2009, Nexus filed a petition requesting that the TRA amend its ETC Order to describe Nexus' services in Tennessee as "wireline and wireless."¹¹ Nexus' request for modification of the ETC Order revealed for the first time that Nexus serves its customers using both wireline and wireless technologies. On June 7, 2009, the TRA declined to amend the language of the ETC Order as Nexus requested and instead amended its ETC Order to definitively state that Nexus had ETC designation for "wireline local exchange services."¹²

On November 25, 2009, Steven Fenker, President of Nexus, filed a letter in Docket No. 08-00119 indicating that, based on the TRA's orders, Nexus applied for and was assigned two Study Area Codes enabling it to receive federal universal service low-income funding for the

⁹ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("ETC Order") (October 27, 2008).

¹⁰ 47 U.S.C.A. §§ 254(e) and §214(e)(2) and (6).

¹¹ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order* ("Petition for Clarification") (March 23, 2009).

¹² See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Order Granting Petition for Clarification and Issuance of Amended Order*, p. 2, and attached thereto, *Amended Order Designating Nexus Communications, Inc. as an Eligible Telecommunications Carrier* ("Amended ETC Order"), p. 3 ¶ 3 (June 7, 2009).

provision of Lifeline service using both wireline and wireless technologies.¹³ In his letter, Mr. Fenker asserted that such action was consistent with Nexus' interpretation of Federal Communications Commission ("FCC") Rule 54.201(h), which directs state commissions to designate ETC status to qualified carriers regardless of the technology used to provide service. Moreover, Nexus contended that FCC rule § 54.201(h) broadly authorizes a state-designated ETC to provide service to, and receive federal universal service support funding for, low-income customers using any technology the carrier wishes to offer.¹⁴ In addition, Mr. Fenker stated that Nexus, as a "certified carrier," is subject to TRA enforcement of Lifeline and Link Up regulations as to both wireline and wireless service. Yet, Nexus also stated that it "voluntarily submits" to the TRA's jurisdiction and would comply with TRA rulings enforcing state and federal Lifeline and Link Up regulations "irrespective of the technology Nexus uses to provide service."¹⁵

THE PETITION

Subsequent to its notification from USAC that certain universal service support payments made to Nexus for wireless ETC service were not authorized,¹⁶ Nexus filed on April 28, 2010, a *Petition* urging the Authority to declare that the TRA has jurisdiction under federal and state law to designate Nexus as a wireless ETC, and further, to declare *nunc pro tunc* that Nexus' ETC designation includes authority to provide a wireless low-income offering, *i.e.*, Lifeline and/or Link Up service, in Tennessee.¹⁷ In its *Petition*, Nexus acknowledges that neither the initial ETC

¹³ See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, Letter from Steven Fenker, President, Nexus Communications, Inc. (November 25, 2009).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ As referenced in the *Petition*, p. 4 ¶ 13, a letter dated April 16, 2010, from USAC indicated that because Nexus did not appear to be authorized or designated by the TRA to provide wireless ETC service, disbursement of subsidies to Nexus for wireless low-income program subscribers would be discontinued and further, USAC might seek reimbursement from Nexus of monies previously paid to it for such unauthorized services.

¹⁷ *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee ("Petition")* (April 28, 2010).

Order nor the Amended ETC Order mentioned or specifically granted authority to Nexus to provide wireless ETC services.¹⁸ Despite this admission, Nexus reiterates its earlier contentions that based on the TRA's orders designating Nexus as an ETC and Nexus' interpretation of FCC Rules, specifically 47 C.F.R. § 54.201(h), it is justified in applying for and obtaining two Study Area Codes to provide federally-subsidized service to low-income customers using wireline¹⁹ and wireless technologies.²⁰

In its *Petition*, Nexus further asserts that the Authority is empowered to authorize Nexus to provide federally subsidized low-income wireless service not only under federal law, but also under state law.²¹ At paragraph 17, Nexus proffers its interpretation of Tenn. Code Ann. § 65-4-101(6)(F) concerning the limits of regulation upon providers of "domestic public cellular radio telephone service," commonly known as commercial mobile radio service ("CMRS") or wireless telephone service, and the statute's classification of providers of such services as "nonutilities." According to Nexus, Tenn. Code Ann. § 65-4-101(6)(F) does not preclude but, instead, preserves, the exercise of TRA jurisdiction over the wireless service of a certificated carrier that is subject to regulation under Chapter 5 of Title 65.²²

Nexus asserts that Tenn. Code Ann. § 65-4-101(6)(F) distinguishes between a CMRS provider that exclusively offers wireless service in competition with another CMRS provider and a CMRS provider that is classified as a public utility due to also furnishing services regulated by

¹⁸ *Petition*, pp. 2-3, ¶¶ 2 and 7 (April 28, 2010).

¹⁹ *Petition*, p. 3, ¶¶ 8-9 and footnote 2 (April 28, 2010) ("Nexus applied for a wireline code on July 24, 2009, and received it two days later on July 31, 2009."); see also, *Affidavit of Steven Fenker* attached to *Petition*, ¶ 16 (April 28, 2010) ("On July 29, 2009 Nexus submitted to USAC a Study Area Code ("SAC Code") request form for technology type 'wireline.' USAC after only a two day review of the Original Order issued Nexus a separate 'wireline' SAC Code on July 31, 2009.").

²⁰ *Petition*, p. 3 (April 28, 2010) ("Two months later, on August 21, 2009, USAC issued Nexus a wireless code for Tennessee."); see also, *Affidavit of Steven Fenker* attached to *Petition*, ¶ 15 (April 28, 2010) ("USAC after a two month review of the application and an analysis of both Orders, finally issued Nexus a separate "wireless" SAC Code on August 21, 2009.").

²¹ *Petition*, p. 5, ¶¶ 16-17.

²² *Petition*, pp. 5-6, ¶ 17(a-g).

the TRA. Further, Nexus contends that because it is subject to TRA jurisdiction for its wireline/landline services, it is likewise subject to TRA regulation as a CMRS provider for its wireless service, at least insofar as concerns designation of ETC.²³

On May 11, 2010, Nexus filed an *Amendment to Petition* supplementing its interpretation of the statutory provision at issue and inserting an additional argument in support of its assertion that the TRA's jurisdiction currently includes wireless telephone service. In its *Amendment to Petition*, Nexus asserts that the language of Tenn. Code Ann. § 65-4-101(6)(F) acts to deregulate only certain entities that provide wireless service, and not the service itself.²⁴ To illustrate its point, Nexus offers its comparative analysis of the language of the subject statute with language found in Tenn. Code Ann. § 65-5-203 (2006), which prohibits the exercise of TRA jurisdiction over broadband services. Based on its comparison of the statutes, Nexus contends that the regulatory exemption found in Tenn. Code Ann. § 65-4-101(6)(F) is not for uniform application. Rather, Nexus surmises that had the legislature intended to exempt wireless service from the TRA's jurisdiction, it could have done so using the language of the later-enacted broadband statute.²⁵ In other words, because Tenn. Code Ann. § 65-4-101(6)(F)²⁶ does not utilize language identical to the 2006 broadband statute, this somehow evidences an intent to provide, and not to remove, TRA jurisdiction for particular entities only, *i.e.*, that providers of wireless service that also offer a service that the TRA has jurisdiction to regulate, should be subject to TRA regulation for services that it provides that the TRA would not otherwise have jurisdiction.

Finally, Nexus contends that because it purports to supply landline telephone service and does not exclusively provide wireless telephone services and, thus, "is not one of those entities"

²³ *Petition*, p. 6, ¶ 17(d-f).

²⁴ *Amendment to Petition* (May 11, 2010).

²⁵ *Id.*

²⁶ Tenn. Code Ann. § 65-4-101(6)(F) was enacted prior to 1995, while the Tennessee Public Service Commission ("TPSC") was still in existence. In 1995, the 99th General Assembly abolished the TPSC and thereafter created the TRA in its stead to effectively govern and regulate public utilities in the state of Tennessee.

to which, under its interpretation of the statute, the regulatory exemption applies.²⁷ That is, because the TRA has jurisdiction over Nexus' landline service, it follows that the TRA also has jurisdiction and authority over Nexus' wireless service - but only to the extent necessary to designate it eligible to receive federal subsidies for wireless service to qualified low-income consumers. In short, Nexus claims that as a certificated competing local exchange carrier ("CLEC"), and therefore a public utility subject to TRA jurisdiction, it is and remains a public utility, if not for all of its services, then at least for the limited purpose of receiving wireless ETC designation.

FINDINGS AND CONCLUSIONS

In this docket, Nexus asks the TRA to declare that it has jurisdiction under federal and state law to designate Nexus as a wireless ETC provider, and further, to declare *nunc pro tunc* that the ETC designation for wireline services granted to Nexus by the TRA on October 27, 2008, included authority to provide wireless Lifeline and Link Up services in Tennessee, thereby, making Nexus eligible as of that date to receive federal universal support funding for provision of wireless services.

To preserve and advance universal telecommunications service, the United States Congress has made federal funding, or subsidies, available to telecommunications carriers that meet certain minimum requirements.²⁸ The Authority agrees with Nexus insofar as that, under federal law, state commissions, such as the TRA, hold relatively broad power to designate as ETCs telecommunications carriers that meet those requirements, thereby enabling such carriers to receive federal universal service subsidies.²⁹ In addition, under 47 C.F.R. § 54.201(h), a state commission that determines that a carrier has satisfied the prerequisites for ETC designation is

²⁷ *Id.*

²⁸ 47 U.S.C.A. § 254(e).

²⁹ 47 U.S.C.A. § 214(e)(2).

not restricted from granting, nor permitted to deny, ETC designation due to such carrier's chosen method of distributing service.³⁰ The TRA further recognizes that when a carrier seeking ETC designation is not subject to the jurisdiction of a state commission, whether due to the nature or geographical location of its service, federal law directs that the FCC perform the designation.³¹

Notwithstanding the potential authority that the TRA may have under federal law, ultimately, the TRA is a legislatively created body of the state and empowered only to exercise the jurisdiction, power, and authority delegated to it by the Tennessee General Assembly.³² In *BellSouth Advertising & Publishing Corp. v. TRA*, the Supreme Court of Tennessee stated, "In defining the authority of the TRA, this Court has held that '[a]ny authority exercised by the TRA must be the result of an express grant of authority by statute or arise by necessary implication from the expressed statutory grant of power.'"³³ The General Assembly has charged the TRA with "general supervisory and regulatory power, jurisdiction and control over all *public utilities*" within Tennessee.³⁴

While "public utility" is defined broadly within Tenn. Code Ann. § 65-4-101, the General Assembly has expressly excluded "nonutilities" from the TRA's jurisdiction.³⁵ "Nonutilities" has been defined to include any entity "offering domestic public cellular radio telephone service" (*i.e.*, CMRS and wireless service providers).³⁶

(6) . . . "Public utility" as defined in this section shall not be construed to include the following *nonutilities*:

(F) Any individual, partnership, copartnership, association, corporation or joint stock company offering *domestic public cellular radio telephone service* authorized by the federal communications commission . . .³⁷

³⁰ 47 C.F.R. § 54.201(h).

³¹ 47 U.S.C.A. § 214(e)(6).

³² *BellSouth Advertising & Publishing Corp. v. Tennessee Regulatory Auth.*, 79 S.W.3d 506, 512 (Tenn. 2002); *Tennessee Pub. Serv. Comm'n v. Southern Ry. Co.*, 554 S.W.2d 612, 613 (Tenn. 1977).

³³ *Id.*

³⁴ Tenn. Code Ann. § 65-4-104 (*emphasis added*).

³⁵ Tenn. Code Ann. § 65-4-101(6).

³⁶ Tenn. Code Ann. § 65-4-101(6)(F).

³⁷ Tenn. Code Ann. § 65-4-101(6)(F) (*emphasis added*).

In addition, the statute provides a regulatory exception to the complete removal of regulatory authority over such providers so long as competition is restricted to one CMRS provider in the same cellular geographical area. Even then, the TRA has limited jurisdiction to review only the customer rates of such providers:

... until at least two (2) entities, each independent of the other, are authorized by the federal communications commission to offer domestic public cellular radio telephone service in the same cellular geographic area within the state, the *customer rates only of a company offering domestic public cellular radio telephone service shall be subject to review by the Tennessee Regulatory Authority pursuant to §§ 65-5-101 – 65-5-104.*...³⁸

The TRA's delegated authority over wireless service providers is limited to rates, conditioned on and extending only until the FCC has authorized two wireless providers to offer service in the same cellular geographical area of the state. Expressly set out within the statutory provision itself is the triggering event that rescinds the TRA's limited grant of jurisdiction over wireless providers:

... Upon existence in a cellular geographical area of the conditions set forth in the preceding sentence, domestic public cellular radio telephone service in such area [where the FCC has authorized two providers], for all purposes, shall automatically cease to be treated as a public utility. . . . The [TRA's] authority . . . is expressly limited [to the absence of two authorized providers] and the authority shall have no authority over resellers of domestic public cellular radio telephone service. . . . This subdivision (6)(F) does not affect, modify or lessen the regulatory authority's authority over public utilities that are subject to regulation pursuant to chapter 5 of this title.³⁹

The TRA has long recognized the plain language of Tenn. Code Ann. § 65-4-101(6)(F) limits, and removes, the TRA's authority over wireless service providers. Thus, the TRA has consistently acknowledged its lack of state-delegated authority over CMRS providers in both the

³⁸ *Id.*

³⁹ *Id.*

broad sense⁴⁰ and specifically as to ETC designation.⁴¹ As set forth extensively above, Nexus sought a ruling on the issue of wireless ETC designation previously when it filed its *Petition for Clarification* with the Authority in Docket No. 08-00119.⁴² Consistent with its previous rulings on matters involving wireless service, the Authority finds that it does not have jurisdiction over wireless providers based on the express definition of “nonutilities” found in Tenn. Code Ann. § 65-4-101(6)(F), and therefore, specifically does not have subject matter jurisdiction over the precise issue upon which the Company seeks a declaratory ruling.

Tenn. Code Ann. § 4-5-223⁴³ provides that a state agency, upon petition for a declaratory order, must either convene a contested case hearing and issue a declaratory order or refuse to issue a declaratory order within sixty days of receipt of the petition. In the case of *Hughley v. State*, the Tennessee Supreme Court found that the lack of a contested case hearing on the

⁴⁰ See *In re: Sprint Communications Company, L.P.*, Docket No. 96-01411, *Final Order of Arbitration Awards* (March 26, 1997), PUR Slip Copy, 1997 WL 233027 *5 (during an Arbitration Conference held on March 26, 1997, the Authority acknowledged its lack of jurisdictional authority to regulate cellular wireless providers when, in ruling on a dispute between Sprint and BellSouth concerning the placement of combined traffic types (local, toll, and wireless) on the same trunk groups, and despite ultimately voting two to one on the specific issue, the Authority panel members all agreed that the Authority lacked jurisdiction over wireless.)

⁴¹ See *In re: Application of Advantage Cellular Systems, Inc. to be Designated as an Eligible Telecommunications Carrier*, Docket No. 02-01245, *Order* (April 11, 2003) (dismissing the application of Advantage Cellular Systems, Inc. for designation as an ETC because, as Advantage Cellular was a CMRS provider, the TRA lacked subject matter jurisdiction because the definition of public utilities under Tenn. Code Ann. § 65-4-101 specifically excludes CMRS providers. In addition the panel noted that under 47 U.S.C.A. § 214(e)(6), the FCC is authorized to perform ETC designations for carriers that are not subject to TRA jurisdiction and that its *Order* serves as an affirmative statement that it lacks jurisdiction to perform the ETC designation as to CMRS carriers.)

⁴² See *In re: Application of Nexus Communications, Inc. for Designation as an Eligible Telecommunications Carrier*, Docket No. 08-00119, *Petition of Nexus Communications, Inc. for Clarification of Final Order* (March 23, 2009).

⁴³ Tenn. Code Ann. § 4-5-223(a) provides:

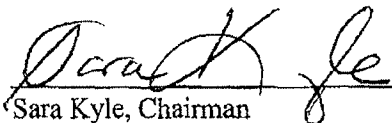
- (a) Any affected person may petition an agency for a declaratory order as to the validity or applicability of a statute, rule, or order within the primary jurisdiction of the agency. The agency shall:
 - (1) Convene a contested case hearing pursuant to the provisions of this chapter and issue a declaratory order, which shall be subject to review in the chancery court of Davidson County, unless otherwise specifically provided by statute, in the manner provided for the review of decisions in contested cases; or
 - (2) Refuse to issue a declaratory order, in which event the person petitioning the agency for a declaratory order may apply for a declaratory judgment as provided in § 4-5-225.

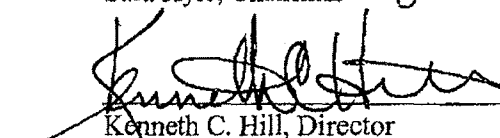
Tenn. Code Ann. § 4-5-223(c) states, “[i]f an agency has not set a petition for declaratory order for a contested case hearing within sixty (60) days after receipt of the petition, the agency shall be deemed to have denied the petition and to have refused to issue a declaratory order.”

petition constitutes refusal to issue a declaratory order under Tenn. Code Ann. § 4-5-223(a)(2), even when the agency provides a decision with reasons that may go to the merits of the petition.⁴⁴ Accordingly, for the above stated reasons, the panel voted unanimously to refuse to issue a declaratory order pursuant to Tenn. Code Ann. § 4-5-223(a)(2).

IT IS THEREFORE ORDERED THAT:

In accordance with Tenn. Code Ann. § 4-5-223(a)(2), the Tennessee Regulatory Authority refuses to issue a declaratory order on the *Petition for Declaratory Ruling and Nunc Pro Tunc Designation of Nexus Communications as an Eligible Telecommunications Carrier to Offer Wireless Service in Tennessee* filed by Nexus Communications, Inc.

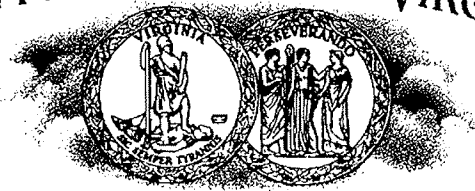

Sara Kyle, Chairman


Kenneth C. Hill, Director


Mary W. Freeman, Director

⁴⁴ *Hughley v. State*, 208 S.W.3d 388 (Tenn. 2006) (holding that a letter of denial from the Department of Correction, issued without a hearing in response to a petition for declaratory order, is not equivalent to a “final order” in a contested case proceeding even when such response is issued after research and analysis of petitioner’s grounds for seeking same and purports to deny petitioner’s claims on the merits, and accordingly, the sixty-day statute of limitations established in Tenn. Code Ann. § 4-5-322(b)(1) is not applicable.).

COMMONWEALTH OF VIRGINIA



WILLIAM IRBY
DIRECTOR

STEVEN C. BRADLEY
DEPUTY DIRECTOR

KATHLEEN A. CUMMINGS
DEPUTY DIRECTOR

P.O. BOX 1197
RICHMOND, VA
23218-1197

TELEPHONE: (804) 371-9420
FAX: (804) 371-9069

STATE CORPORATION COMMISSION DIVISION OF COMMUNICATIONS

November 17, 2010

Ms. Jacqueline Hankins
Helein & Marshlian, LLC
The CommLaw Group
1420 Spring Hill Road, Suite 205
McLean, Virginia 22102

Dear Ms. Hankins:

This is in response to your October 25, 2010 letter to me on behalf of Boomerang Wireless LLC, d/b/a Ready Mobile ("Boomerang") requesting clarification of the Virginia State Corporation Commission's ("Commission") jurisdiction over the designation of wireless Eligible Telecommunications Carriers ("ETC") in Virginia.

Only one wireless carrier, Virginia Cellular LLC, has sought designation as an ETC in Virginia. In that instance (Case No. PUC010263), by order dated April 9, 2002, the Commission determined, pursuant to Section 214 (e) (6) of the Telecommunications Act of 1996, that Virginia Cellular LLC should apply to the Federal Communications Commission for ETC designation because it had not asserted jurisdiction over CMRS carriers. A copy of this order is enclosed.

Very truly yours,

William Irby

WI/ctj

Enclosure

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION

AT RICHMOND, APRIL 9, 2002

COMMONWEALTH OF VIRGINIA, ex rel.¹

At the relation of the

STATE CORPORATION COMMISSION

CASE NO. PUC970135

Ex Parte, in re: Implementation
of Requirements of § 214(e) of the
Telecommunications Act of 1996

IN RE:

APPLICATION OF VIRGINIA CELLULAR LLC

CASE NO. PUC010263

For designation as an eligible
telecommunications provider under
47 U.S.C. § 214(e) (2)

ORDER

On September 15, 1997, the State Corporation Commission ("Commission") established the docket in Case No. PUC970135 to consider the requests of local exchange carriers ("LECs") to be designated as eligible telecommunications carriers ("ETC designation") to receive universal service support pursuant to § 214(e) of the Telecommunications Act of 1996, 47 U.S.C. § 251 et seq., ("Act") and associated Federal Regulations.¹ The Commission's exercise of its jurisdiction under § 214(e) (2) of the Act has been to establish a simple and streamlined process for telecommunications carriers to certify their eligibility with a minimum of regulatory burden placed upon each applicant.

¹ 47 C.F.R. § 54.201-207.

All Virginia carriers receiving an ETC designation have merely been required to file an affidavit which, among other matters, certifies that all requirements of the Act for designation are met.²

Until the above-captioned Application was filed in Case No. PUC010263 by Virginia Cellular LLC ("Virginia Cellular" or "Applicant") for ETC designation, these proceedings have been uncontested. This is the first application by a Commercial Mobile Radio Service ("CMRS") carrier for ETC designation.³ Pursuant to the Order Requesting Comments, Objections, or Requests for Hearing, issued by the Commission on January 24, 2002, the Virginia Telecommunications Industry Association ("VTIA") and NTELOS Telephone Inc. ("NTELOS") filed their respective comments and requests for hearing on February 20, 2002. Virginia Cellular filed Reply Comments on March 6, 2002.⁴

The comments of NTELOS and VTIA both contest the sufficiency of the Application and claim Virginia Cellular has

² See Order issued November 21, 1997, in Case No. PUC970135, pp. 2-4 ("November 21, 1997, Order"). Also, the annual certification procedure to comply with 47 C.F.R. §§ 54.313 and 314 has been reduced to filing a form affidavit approved by the Commission in a Preliminary Order, issued August 29, 2001, in Case No. PUC010172.

³ Virginia Cellular is a CMRS carrier as defined in 47 U.S.C. § 153(27) and is authorized as the "A-band" cellular carrier for the Virginia 6 Rural Service Area, serving the counties of Rockingham, Augusta, Nelson, and Highland and the cities of Harrisonburg, Staunton, and Waynesboro.

⁴ On March 4, 2002, Virginia Cellular filed a Consent Motion requesting until March 6, 2002, to file Reply Comments. There being no objection, we now grant the Consent Motion.

failed to demonstrate how the public interest will be served.⁵ NTELOS and VTIA each allude in their comments to other expected applications for ETC designation¹ by wireless and CLEC carriers to follow this case of first impression. For that reason, we are asked by VTIA and NTELOS to convene a hearing and establish certain standards for the provisioning of the nine services specified in 47 C.F.R. § 54.101.⁶ Each applicant is required to provide these nine services to be eligible for ETC designation.

VTIA further comments that "[i]t is not clear how the designation of Virginia Cellular as an ETC will affect the distribution of Universal Funds to the existing carriers in any given rural exchange area." Virginia Cellular replies that this "macroeconomic concern" need not be addressed with this Application. Rather, the Federal Communications Commission ("FCC") and the Federal State Joint Board on Universal Service

⁵ § 214(e)(2) of the Act requires that an ETC designation in areas served by a rural telephone company be based upon a finding that the designation is in the public interest. The Commission did recognize in its November 21, 1997, Order that any carrier seeking ETC designation in a rural area would have the burden of proving that such designation is in the public interest if challenged. Virginia Cellular is seeking ETC designation in the service territories of the following rural telephone companies: Shenandoah Telephone Company ("Shenandoah"), Clifton Forge Waynesboro Telephone Company ("NTELOS"), New Hope Telephone Company, North River Cooperative, Highland Telephone Cooperative, and Mountain Grove-Williamsville Telephone Company ("MGW").

⁶ The nine services required to be offered include: voice grade access to the public switched network; local usage; dual tone multi-frequency signaling or its functional equivalent; single-party service or its functional equivalent; access to emergency services; access to operator services; access to interexchange service; access to directory assistance; and toll limitation for qualifying low-income consumers. Also, the services must be advertised in appropriate media sources. See In Re: Federal-State Joint Board of Universal Service, Report and Order, CC Docket No. 96-45, ¶ 145 (May 8, 1997) ("Universal Service Report & Order").

are reported by Virginia Cellular to be conducting ongoing proceedings to ensure the solvency of the high-cost support fund.⁷ Presumably, VTIA views any public interest served by Virginia Cellular's ETC designation to depend upon whether there would be a consequent diminution of universal service funds.

Virginia Cellular cites the authority of § 214(e)(6) of the Act for this Commission to send Applicant to the FCC for ETC designation if this Commission declines to act on its Application.⁸ In its Reply Comments, Virginia Cellular reports that the "FCC has been actively processing ETC applications on behalf of states which have declined to exercise jurisdiction [over CMRS carriers]. Its internal processing time has been six months, and it has met that timeline in almost all of its proceedings [and] . . . most, if not all of the issues raised by the commenters have been previously addressed by the FCC in its prior orders involving applications for ETC status."⁹

The Commission finds that § 214(e)(6) of the Act is applicable to Virginia Cellular's Application as this Commission has not asserted jurisdiction over CMRS carriers and that the

⁷ Reply Comments at p. 5.

⁸ Pursuant to § 332(c)(3), 47 U.S.C. § 332(c)(3), state regulation of the entry of or the rates charged by any commercial mobile service or any private mobile service is preempted. The Commission has deregulated all Virginia radio common carriers and cellular mobile radio communications carriers. See Final Order issued October 23, 1995, Case No. PUC950062.

⁹ Reply Comments at p. 3.

Applicant should apply to the FCC for ETC designation.¹⁰ The Applicant points out that if Virginia Cellular is designated as an ETC carrier, then the Commission must redefine the service areas of NTELOS and Shenandoah, pursuant to 47 C.F.R.

§ 54.207(c).¹¹ The Applicant has indicated a willingness to propose a plan to redefine these companies' service areas and may submit such a plan with its application to the FCC for ETC designation.

If necessary, this Commission will participate with the FCC and Federal-State Joint Board in redefining the service areas of NTELOS and Shenandoah for "the purpose of determining universal service obligations and support mechanisms." (47 C.F.R.

§ 54.207(a)).¹² Although the FCC will make the final determination on Virginia Cellular's requests, we need to leave this docket open in case there is additional action we must take with respect to defining the service areas of NTELOS and Shenandoah.¹³

¹⁰ The action is similar to that taken by the Commission in Case No. PUC010172 in its August 29, 2001, Order that required cooperatives to certify directly with the FCC.

¹¹ The Commission believes that the service area of MGW does not necessarily need to be redefined if Virginia Cellular is designated as an ETC in that territory. However, if the FCC determines otherwise, the Commission will consider additional action if necessary.

¹² Pursuant to 47 C.F.R. § 54.207(c), if the Applicant proposes to redefine these two companies' service areas, the FCC's procedures require the Commission's agreement on the definitions.

¹³ At this juncture, it is unclear whether the Commission will need to address the redefinitions once disaggregation plans are filed at the FCC pursuant to 47 C.F.R. § 54.315(a).

NOW UPON CONSIDERATION of all the pleadings of record and the applicable law, the Commission is of the opinion that Virginia Cellular should request the FCC to grant the requested ETC designation, pursuant to 47 U.S.C. § 214(e)(6).

Accordingly, IT IS ORDERED THAT Case No. PUC010263 will remain open for further order of the Commission.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to: all LECs certified in the Commonwealth of Virginia, as set out in Appendix A of this Order; David A. LaFuria, Esquire, Lukas Nace Gutierrez & Sachs, 1111 Nineteenth Street, N.W., Suite 1200, Washington, D.C. 20036; C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219; William F. Caton, Acting Secretary, Federal Communications Commission, Office of the Secretary, 445 12th Street, S.W., Washington, D.C. 20554; and the Commission's Office of General Counsel and Division of Communications.

REDACTED FOR PUBLIC INSPECTION

EXHIBIT B

KELLEY DRYE & WARREN LLP

A LIMITED LIABILITY PARTNERSHIP

WASHINGTON HARBOUR, SUITE 400

3050 K STREET, NW

WASHINGTON, DC 20007

(202) 342-8400

FACSIMILE

(202) 342-8451

www.kelleydrye.com

DIRECT LINE: (202) 342-8544

EMAIL: jheitmann@kelleydrye.com

NEW YORK, NY
LOS ANGELES, CA
CHICAGO, IL
STAMFORD, CT
PARSIPPANY, NJ

BRUSSELS, BELGIUM

AFFILIATE OFFICE
MUMBAI, INDIA

December 12, 2012

Via ECFS

Ms. Marlene H. Dortch, Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Assist Wireless, LLC Revised Compliance Plan; WC Docket Nos. 09-197,
11-42
Redacted for Public Inspection

Dear Ms. Dortch:

On June 29, 2012, Assist Wireless, LLC (“Assist” or the “Company”) submitted its Compliance Plan outlining the measures it will take to implement the conditions imposed by the Commission in its *Lifeline Reform Order*.¹ Assist submitted a revised Compliance Plan on September 27, 2012.

After a meeting with Commission staff on October 1, 2012, Assist has further revised its Compliance Plan to: (1) note that the Company does not provide toll limitation service because the Company does not differentiate between local and long distance calls; (2) clarify that Assist will de-enroll subscribers for non usage; (3) provide additional details regarding Assist’s service activation process; (4) provide company ownership information in new Exhibit 1; (5) identify the Company’s website address; (6) confirm the Company will provide required information to the Universal Service Administrative Company; and (7) explain that Assist will conduct refresher training for employees and agents. Certain of the information in new Exhibit 1 is confidential and proprietary and was submitted with a request for confidential treatment.

¹ See *Lifeline and Link Up Reform and Modernization, Lifeline and Link Up, Federal-State Joint Board on Universal Service, Advancing Broadband Availability Through Digital Literacy Training*, WC Docket No. 11-42, WC Docket No. 03-109, CC Docket No. 96-45, WC Docket No. 12-23, FCC 12-11 (Feb. 6, 2012).

KELLEY DRYE & WARREN LLP

Ms. Marlene H. Dortch, Secretary
December 12, 2012
Page Two

This letter and the confidential version of the revised Compliance Plan are being filed by hand delivery. This redacted version of the filing is being submitted electronically for inclusion in the public record of the above-referenced proceedings.

Assist hereby resubmits a redacted version of its complete Compliance Plan with the above revisions and reiterates its request for the expeditious approval of its Compliance Plan. Please contact the undersigned if you have any questions regarding this filing.

Respectfully submitted,



John J. Heitmann
Denise N. Smith

Counsel to Assist Wireless, LLC

cc: Kim Scardino
Jonathan Lechter
Michelle Schaefer
Divya Shenoy
Garnet Hanly

REDACTED FOR PUBLIC INSPECTION

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of

Lifeline and Link Up Reform and
Modernization

Telecommunications Carriers Eligible to
Receive Universal Service Support

Assist Wireless, LLC

WC Docket No. 11-42

WC Docket No. 09-197

REVISED COMPLIANCE PLAN OF ASSIST WIRELESS, LLC

Assist Wireless, LLC (“Assist Wireless” or the “Company”) through its undersigned counsel, hereby seeks to avail itself of the Federal Communications Commission’s (Commission’s) grant of forbearance from the “own facilities” requirement set forth in 47 U.S.C. § 214(e)(1)(A) by submission of this Compliance Plan. Assist Wireless’ Compliance Plan is filed in accordance with the procedures established in the *Lifeline Reform Order*¹ and clarified in the *Public Notice* issued by the Wireline Competition Bureau on February 29, 2012.²

Assist Wireless respectfully requests expeditious approval of its Petition and its Compliance Plan so that the Company may continue to provide essential Lifeline service to eligible low-income customers in states where it has been designated an ETC and so that it may

¹ *Lifeline and Link Up Reform and Modernization et al.*, WC Docket No. 11-42 *et al.*, Report and Order and Further Notice of Proposed Rulemaking, FCC 12-11 (FCC rel. Feb. 6, 2012) (“*Lifeline Reform Order*”).

² *Wireline Competition Bureau Provides Guidance for the Submission of Compliance Plans Pursuant to the Lifeline Reform Order*, Public Notice, DA 12-314 (WCB rel. Feb. 29, 2012) (“*Public Notice*”).

REDACTED FOR PUBLIC INSPECTION

provide service to additional eligible low-income consumers in the various states for which it has pending ETC petitions.

As set forth below, Assist Wireless will fully comply with all conditions set forth in the Commission's recently amended Lifeline rules and with all pertinent conditions set forth in the *Lifeline Reform Order*. This Compliance Plan describes the measures Assist Wireless has already implemented or intends to implement to achieve full compliance with the Commission's Lifeline rules and policies. For the convenience of the Commission, this Compliance Plan follows the format established by the Wireline Competition Bureau in the *Public Notice*.

I. INFORMATION ABOUT ASSIST WIRELESS AND THE LIFELINE PLANS IT OFFERS

A. Company Information

Assist Wireless is a Texas limited liability company, with headquarters in Fort Worth, Texas. The Company's managers are BBY GP, LLC; Flagship Investment Partners, LLC; and SXCS Investments, LLC. The Manager Representatives are Byron Young for BBY GP, LLC; Suleman Bhimani for Flagship Investment Partners, LLC; and David Dorwart for SXCS Investments, LLC.³ The Company has no subsidiaries and operates under the name "Assist Wireless." Byron Young is President of New Talk, Inc., which is a wireline ETC that participates in the Lifeline program in Texas and New Talk Wireless, LLC, a wireless reseller seeking ETC designation in Texas. Byron Young has a minority and non-controlling interest in Express Cash and Phone, Inc. d/b/a Talk Now Telco, which is a CLEC and an ETC designated in

³ The members of Assist that own or control 10% or more of the Company, report that they, or their individual principals, also own or control 10% or more of the companies listed in Confidential Exhibit 1, attached hereto, which companies may be deemed to be 'affiliates' as that term is defined in 47 U.S.C. § 153(2). The Company does not have a holding or operating company and does not own or control any other entities. The Company also reports its corporate and trade names and identifiers.

Texas. Byron Young is also President of Telecom Ventures, LLC, which is a competitive local exchange carrier in New York and Oklahoma. Suleman Bhimani is the Chief Executive Officer of U.S. Connect, which is wholly owned by Great Wireless, LLC, which, in turn, is 100% owned by Suleman Bhimani. U.S. Connect is designated as an ETC in Maryland, West Virginia, and Arkansas, and has ETC applications pending for other states as well.

B. Assist Wireless' Financial and Technical Capabilities to Provide Lifeline Service

Assist Wireless is a wireless Lifeline-only ETC designated as such by the States of Arkansas, Maryland, Missouri, and Oklahoma. The Company has ETC applications pending in Illinois, Louisiana, Mississippi, and Pennsylvania. Assist Wireless provides service to its end users via a combination of facilities that it owns and through resale of telecommunications services.⁴ The Company has been providing service since January 2011, with its principal offices in Fort Worth, Texas. Assist Wireless serves approximately 115,000 Lifeline customers; 100,000 in Oklahoma, and the remainder in Arkansas and Maryland. In addition, the Company plans to file with the Commission a petition for ETC designation in the ten federal jurisdiction states. Assist Wireless did not seek High Cost support in any of the states for which it has been designated an ETC, or has not sought High Cost support in any pending ETC application.

⁴ Although the Company qualifies for and seeks to avail itself of the Commission's grant of forbearance from the facilities requirement of section 214(e)(1)(A) for purposes of the federal Lifeline program, the Company reserves the right to demonstrate to a state public utilities commission that it provides service using its own facilities in a state for purposes of state universal service funding under state program rules and requirements. The Company will follow the requirements of the Commission's Lifeline rules and this Compliance Plan in all states in which it provides Lifeline service and receives reimbursements from the federal Low-Income Fund, including in any state where the public utilities commission determines that Assist Wireless provides service using its own facilities for purposes of a state universal service program.

REDACTED FOR PUBLIC INSPECTION

Assist Wireless is successfully providing Lifeline-supported services and has a steadily increasing customer base. Assist Wireless owns and operates its own switching facilities,⁵ and has back-office and operations support systems (OSS) that are ideally suited to serve lower revenue subscribers. Assist Wireless has invested substantial sums to evaluate, design, develop and integrate these systems.

Assist Wireless is financially stable and fully capable of honoring its service obligations to customers, as well as federal and state regulatory obligations. Although Assist Wireless derives revenues from the sale of Lifeline services, the Company does not rely exclusively on USF disbursements to operate. For example, the Company derives additional revenue from the sale of wireless services beyond its free Lifeline offerings, including the sale of replenishment airtime minutes, and the sale of optional service packages (*e.g.*, Internet and SMS text services).

Finally, Assist Wireless has not been subject to any enforcement action or ETC revocation proceeding in any state.

C. Geographic Area of Assist Wireless' Service Offerings

Assist Wireless is a wireless Lifeline-only ETC designated as such by the States of Arkansas, Maryland, Missouri, and Oklahoma. The Company has Lifeline-only ETC applications pending in Illinois, Louisiana, Mississippi, and Pennsylvania. Also, the Company plans to file a petition with the Commission shortly to be designated a limited-ETC for the States of Alabama, Connecticut, Delaware, Florida, New Hampshire, New York, North Carolina, Tennessee, the Commonwealth of Virginia, and the District of Columbia.

⁵ The company reserves the right to utilize its own facilities for the provision of voice telephony for purposes of state universal service funding under state program rules and requirements.

D. Assist Wireless' Lifeline Service Plans

Exhibit 2 to this Compliance Plan contains the Company's Lifeline offerings.

Other Certifications Required by 47 C.F.R. § 54.202

The *Public Notice* requires carriers to include certifications required under newly amended 47 C.F.R. § 54.202. Assist Wireless hereby certifies that it will comply with the service requirements applicable to the support it receives.⁶ Specifically, Assist Wireless' Lifeline services: (i) include voice telephony services that provide voice grade access to the public switched network or its functional equivalent; (ii) provide subscribers with a defined number of minutes of usage for local service at no additional charges (as described above in Section I(D)); (iii) provide subscribers with access to the emergency services provided by local government or other public safety organizations, such as 911/E911, to the extent the local government in Assist Wireless' service area has implemented 911/E911 systems (as described below in Section III); and (iv) toll limitation for qualifying low-income consumers.⁷

⁶ 47 C.F.R. § 54.202(a)(1)(i).

⁷ 47 C.F.R. § 54.101(a); also, toll limitation means both toll blocking and toll control, or, if a carrier is not capable of providing both toll blocking and toll control, then toll limitation is defined as either toll blocking or toll control. Assist Wireless commits to meeting this requirement by offering service on a prepaid, or pay-as-you-go, basis. As the Commission found in its grant of ETC designation to Virgin Mobile, "the prepaid nature of [a prepaid wireless carrier's] service offering works as an effective toll control." *Virgin Mobile USA, L.P. Petition for Forbearance from 47 U.S.C. § 214(e)(1)(A)*, Order, 24 FCC Rcd 3381, 3394 at ¶ 34 (2009). Moreover, Assist Wireless' calling plans do not distinguish between local or toll services, and offer nationwide calling. Assist Wireless will provide this toll control to qualifying low-income consumers at no additional charge. Assist will not provide toll limitation service for its wireless service offerings. Assist, like most wireless carriers, does not differentiate between domestic long distance toll usage and local usage and all usage is paid in advance. Pursuant to the *Lifeline Reform Order*, subscribers to such services are not considered to have voluntarily elected to receive TLS. See *Lifeline Reform Order*, ¶ 230.

II. ASSIST WIRELESS' PLANS FOR COMPLIANCE WITH NEW COMMISSION RULES RELATING TO DETERMINATIONS OF SUBSCRIBER ELIGIBILITY FOR LIFELINE SERVICES

Assist Wireless will comply with the requirements pertaining to consumer qualifications for Lifeline set forth in new section 54.409 of the Commission's rules⁸ and any state-specific requirements in the various states in which Assist Wireless has been (or will be) designated an ETC. More specifically, Assist Wireless will require all subscribers to demonstrate eligibility based at least on: (1) household income at or below 135% of the Federal Poverty Guidelines for a household of that size; or (2) the household's participation in one of the federal assistance programs listed in new 47 C.F.R. § 54.409(a)(2) or 47 C.F.R. § 54.409(a)(3). Assist Wireless also will confirm that the subscriber is not already receiving a Lifeline service and that no one else in the subscriber's household is subscribed to a Lifeline service.⁹

A. Assist Wireless' Procedures to Determine Consumer Eligibility for the Lifeline Program

If Assist Wireless cannot determine an applicant's eligibility for Lifeline by accessing income or program eligibility databases, Assist Wireless personnel (either employees or third party customer service representatives) will review documents to establish eligibility in accordance with the criteria set forth in 47 C.F.R. §§ 54.409, 54.410. All Assist Wireless personnel who interact with existing Lifeline customers or Lifeline applicants will be fully trained on the Commission's revised Lifeline eligibility rules and Assist Wireless' practices and policies designed to implement these new rules.

⁸ 47 C.F.R. § 54.409.

⁹ 47 C.F.R. § 54.409(c).

REDACTED FOR PUBLIC INSPECTION

Assist Wireless will follow the Commission's requirements pertaining to acceptable documentation to establish eligibility based either on income level or participation in a qualified government assistance program, unless otherwise established by a state Lifeline administrator or other state agency.¹⁰ Specifically, acceptable documentation of program eligibility includes: (1) the current or prior year's statement of benefits from a qualifying state, federal or Tribal program; (2) a notice or letter of participation in a qualifying state, federal or Tribal program; (3) program participation documents (*e.g.*, the consumer's Supplemental Nutrition Assistance Program ("SNAP") electronic benefit transfer card or Medicaid participation card (or copy thereof); or (4) another official document evidencing the consumer's participation in a qualifying state, federal or Tribal program.¹¹

Acceptable documentation of income eligibility includes: (1) the prior year's state, federal, or Tribal tax return; (2) current income statement from an employer or paycheck stub; (3) a Social Security statement of benefits; (4) a Veterans Administration statement of benefits; (5) a retirement/pension statement of benefits; (6) an Unemployment/Workers' Compensation statement of benefit; (7) federal or Tribal notice letter of participation in General Assistance; or (8) a divorce decree, child support award, or other official document containing income information.¹² If the prospective subscriber presents Assist Wireless with documentation of income that does not cover a full year, the prospective subscriber must present the same type of documentation covering three consecutive months within the previous twelve months.¹³

¹⁰ See USAC Guidance available at www.usac.org/li/telecom-carriers/steop06/default.aspx.

¹¹ 47 C.F.R. § 54.410(c)(1)(i)(B).

¹² 47 C.F.R. § 54.410(b)(1)(i)(B).

¹³ *Id.*

REDACTED FOR PUBLIC INSPECTION

Assist Wireless personnel will examine and record the type of documentation presented by each prospective Lifeline subscriber pursuant to a mandatory field in the electronic enrollment process, but will not retain copies of these documents unless required by a state.¹⁴ If an applicant is unable to provide documentary proof of eligibility based on either household income level or current participation in a qualified program, Assist Wireless will deny that application. The Company will comply with all applicable state and federal regulations concerning the protection of subscriber customer proprietary network information (CPNI).

B. Assist Wireless' Procedures for Subscriber Certifications

In the *Lifeline Reform Order*, the Commission established a path for a transition to a national database that will be used to confirm the initial and continued eligibility of a Lifeline customer.¹⁵ Assist Wireless will utilize that database when it becomes operational. Until that time, however, Assist Wireless will continue to use any relevant state databases where available, and will otherwise adhere to the following procedures for enrolling prospective customers into the Lifeline program.

Assist Wireless will implement certification procedures that will enable prospective customers to demonstrate their eligibility by contacting Assist Wireless either in person or by sending proof by mail, facsimile or by email. Except in states in which applicants are enrolled through a designated state agency, Assist Wireless will have direct contact with all prospective customers applying for Lifeline service, either in person through its employees or third party representatives, or by telephone, facsimile or over the Internet. Almost all Assist Wireless enrollments are currently completed in-person with applicants.

¹⁴ 47 C.F.R. § 54.410(b)(1)(ii) - (iii); 47 C.F.R. § 54.410(c)(1)(ii)-(iii).

¹⁵ See *Lifeline Reform Order*, ¶ 403.

REDACTED FOR PUBLIC INSPECTION

Assist Wireless sets up enrollment operations with permission at public events and in local neighborhood parking lots or street corners where eligible Lifeline customers are likely to be located. In addition, Assist Wireless has worked closely with government agencies and Tribal authorities to set up Assist Wireless enrollment stations at such locations. This includes public housing locations and food stamp offices. Finally, Assist Wireless offers service and enrolls customers at various storefronts.

The Company operates an electronic enrollment process supported by BeQuick Software, Inc. whereby applicants provide information and make the required certification on a tablet computer. Paper forms are also available at each event or location for reference. Assist Wireless checks each customer's identification for identity verification and address normalization, which is entered into the enrollment application. The address is checked against the USPS database and the customer's information is checked against the Company's own list of existing customers and databases of other companies with whom Assist management has relationships to ensure it is not a duplicate. If the address is verified and the customer passes the internal duplicate check, they can proceed with the enrollment process whereby the applicant provides the required information, receives the required disclosures and makes the required certifications for enrollment. Assist Wireless will accept electronic signatures that meet the requirements of the Electronic Signatures in Global and National Commerce Act, 15 U.S.C. §§ 7001-7006 and any applicable state laws.¹⁶

Applicants can also download the Company's Lifeline application form from its website at www.assistwireless.com and submit the form, along with the appropriate proof of eligibility,

¹⁶ 47 C.F.R. § 54.419.

REDACTED FOR PUBLIC INSPECTION

by mail, fax or email. Customer will not receive a phone until the application and proof of eligibility is reviewed.

Every prospective subscriber will be required to complete Assist Wireless' revised "Lifeline Application. Exhibit 3 contains a sample Lifeline Application. The Company's revised Lifeline Applications conform to the subscriber certification requirements of the *Lifeline Reform Order* and 47 C.F.R. § 54.410.

Assist Wireless collects the following information from prospective subscribers in its Lifeline Application forms: (1) the subscriber's full name; (2) the subscriber's full residential address (P.O. Boxes are not permitted); (3) whether the residential address is permanent or temporary; (4) the subscriber's billing address, if different; (5) the subscriber's date of birth; (6) the last four digits of the subscriber's Social Security number (or Tribal identification number if the subscriber is a member of a Tribal nation and does not have a Social Security number¹⁷); (7) if the subscriber is seeking to qualify for Lifeline under the program-based criteria, the name of the qualifying assistance program from which the subscriber, or his or her dependents, or his or her household receives benefits; and (8) if the subscriber is seeking to qualify for Lifeline under the income-based criterion, the number of individuals in his or her household.¹⁸ The applicant must also authorize the Company to release any records required for the administration of the Company Lifeline credit program, including to USAC to be used in a Lifeline program database.¹⁹

¹⁷ Assist Wireless will only include language regarding a Tribal identification number on forms used in states with Tribal areas. See Oklahoma forms in Exhibit 3. Currently, Assist Wireless only serves Tribal communities in one state, Oklahoma.

¹⁸ 47 C.F.R. § 54.410(d)(2).

¹⁹ See 47 C.F.R. § 54.404(b)(9). The application/certification form will also describe the information that

REDACTED FOR PUBLIC INSPECTION

In accordance with 47 C.F.R. § 54.410(d), in its Lifeline Applications, Assist Wireless requires all Lifeline applicants to certify, under penalty of perjury, that: (1) the subscriber meets the income-based or program-based eligibility criteria for receiving Lifeline; (2) the subscriber will notify Assist Wireless within 30 days if, for any reason, he or she no longer satisfies the criteria for receiving Lifeline including, as relevant, if the applicant no longer meets the income-based or program-based criteria for receiving Lifeline support, the subscriber is receiving more than one Lifeline benefit, or another member of the subscriber's household is receiving a Lifeline benefit; (3) if the subscriber is seeking to qualify for Lifeline as an eligible resident of Tribal lands, that he or she lives on Tribal lands;²⁰ (4) if the subscriber moves to a new address, that he or she will provide that new address to Assist Wireless within 30 days; (5) if the subscriber provided a temporary residential address to Assist Wireless, the subscriber will verify his or her temporary residential address every 90 days; (6) the subscriber's household will receive only one Lifeline service and, to the best of the applicant's knowledge, the subscriber's household is not already receiving a Lifeline service; (7) the information contained in the subscriber's application/certification form is true and correct to the best of the subscriber's knowledge; (8) the subscriber acknowledges that providing false or fraudulent information to receive Lifeline benefits is punishable by law; and (9) the subscriber acknowledges that he or she may be required to re-certify his or her continued eligibility for Lifeline at any time, and that his or her failure to re-certify as to continued eligibility will result in de-enrollment and the termination of

will be transmitted, that the information is being transmitted to USAC to ensure the proper administration of the Lifeline program and that failure to provide consent will result in the applicant being denied the Lifeline service. *See id.* *See also* Cricket Compliance Plan at 5.

²⁰ Because Assist Wireless' current designated service areas includes only includes Tribal areas in one state (Oklahoma), only Assist Wireless' Lifeline Application specifically for Oklahoma will include this certification. *See* Oklahoma forms in Exhibit 3.

REDACTED FOR PUBLIC INSPECTION

the subscriber's Lifeline benefits.²¹ If a customer contacts the Company and states that he or she is not eligible for Lifeline or wishes to de-enroll for any reason, the Company will de-enroll the customer within five business days. Customers can make this request by calling the Company's customer service number and will not be required to submit any documents.

In accordance with 47 C.F.R. § 54.410(d)(1), Assist Wireless' Lifeline Application discloses the following information: (1) Lifeline is a federal benefit and willfully making false statements to obtain the benefit can result in fines, imprisonment, de-enrollment or being barred from the program; (2) only one Lifeline service is available per household; (3) a household is defined, for purposes of the Lifeline program, as any individual or group of individuals who live together at the same address and share income and expenses; (4) a household is not permitted to receive Lifeline benefits from multiple providers; (5) violation of the one-per-household limitation constitutes a violation of the Commission's rules and will result in the subscriber's de-enrollment from the program; and (6) Lifeline is a non-transferable benefit and the subscriber may not transfer his or her benefit to any other person.²²

Finally, in accordance with 47 C.F.R. § 54.405(c), Assist Wireless' Lifeline Application indicates, using easily understood language, (1) that Assist Wireless' low-income targeted service is a Lifeline service; (2) that Lifeline is a government assistance program; (3) that the service is non-transferable; (4) that only eligible consumers may enroll in the program; and (5) that the program is limited to one discount per household.²³ In addition, the Company notifies applicants that the prepaid Lifeline service must be personally activated by the subscriber and the

²¹ 47 C.F.R. § 54.410; *also see* Exhibit 3.

²² *Id.*

²³ *See Lifeline Reform Order*, ¶ 275; 47 C.F.R. § 54.405(c).

service will be deactivated and the subscriber de-enrolled if the subscriber does not use the service for 60 days.

C. Assist Wireless' Procedures for Annual Verification of Lifeline Customers

In accordance with the requirements of the *Lifeline Reform Order* and 47 C.F.R. § 54.410(f), Assist Wireless will annually re-certify all of its Lifeline subscribers by (1) querying the appropriate eligibility or income databases, confirming that the subscriber continues to meet the program- or income-based eligibility requirements for Lifeline and documenting the results of that review, (2) obtaining a signed certification from the subscriber that meets the certification requirements set forth in 47 C.F.R. § 54.410(d) or (3) having subscribers utilize Assist's automated interactive voice response ("IVR") system to self-certify that the subscriber continues to be eligible for participation in the Lifeline program.²⁴ The verification materials will inform the subscriber that he or she is being contacted to re-certify his or her continuing eligibility for Lifeline and if the subscriber fails to respond, he or she will be de-enrolled in the program.²⁵

For 2012, Assist Wireless will re-certify the eligibility of its Lifeline subscriber base as of June 1, 2012, to be completed by the end of 2012, and report the results to USAC by January 31, 2013.²⁶ Assist Wireless will notify its subscribers in writing that a failure to respond to the recertification request will result in de-enrollment in the Lifeline program.²⁷ The Company will contact its subscribers via text message to their Lifeline supported telephone, or by mail, phone,

²⁴ See *Lifeline Reform Order*, ¶ 132.

²⁵ See *Lifeline Reform Order*, ¶ 145.

²⁶ See *id.*, ¶ 130.

²⁷ 47 C.F.R. § 54.405.

REDACTED FOR PUBLIC INSPECTION

email or other Internet communication. The notice will explain the actions the customer must take to retain Lifeline benefits, when Lifeline benefits may be terminated, and how to contact the Company.

Assist Wireless will de-enroll subscribers who do not respond to the annual verification or fail to provide proof of continued eligibility in accordance with the procedures set forth in 47 C.F.R. § 54.405(e)(4). The Company will give subscribers 30 days to respond to the annual verification inquiry. If the subscriber does not respond, the Company will send a separate written notice explaining that failure to respond within 30 days will result in the subscriber's de-enrollment from the Lifeline program. If the subscriber does not respond within 30 days, the Company will de-enroll the subscriber within five business days.

III. ASSIST WIRELESS' PLANS FOR COMPLIANCE WITH THE FORBEARANCE CONDITIONS RELATING TO PUBLIC SAFETY AND 911/E911 ACCESS

Assist Wireless' existing practices comply with the 911/E911 access conditions set forth in paragraph 373 of the *Lifeline Reform Order*. Specifically, Assist Wireless currently: (1) provides its Lifeline subscribers with 911/E911 access at the time Lifeline service is initiated, regardless of activation status and availability of minutes, and (2) provides its Lifeline subscribers with E911-compliant handsets and replaces, at no additional charge to the subscriber, noncompliant handsets of Lifeline-eligible subscribers who obtain Lifeline-supported services. Assist Wireless' existing practices currently provide access to 911 and E911 services to the extent that these services have been deployed by its underlying wireless carrier. Assist Wireless commits to continue these practices going forward.

Assist Wireless will provide its Lifeline customers with access to 911 and E911 services immediately upon activation of service. The Commission and consumers are hereby assured that all Company customers will have available access to emergency calling services at the time that

REDACTED FOR PUBLIC INSPECTION

Lifeline service is initiated, and that such 911 and E911 access will be available from Company handsets, even if the account associated with the handset has no minutes remaining.

Assist Wireless will provide access to 911 and E911 services for all customers. The Company will use Sprint Nextel and Verizon Wireless as its underlying network providers/carriers.²⁸ Sprint Nextel and Verizon Wireless route 911 calls from the Company's customers in the same manner as 911 calls from their own retail customers. To the extent that Sprint Nextel or Verizon Wireless is certified in a given PSAP territory, this 911 capability will function the same for the Company. Assist Wireless also will enable 911 emergency calling services for all properly activated handsets regardless of whether the account associated with the handset is active or suspended. Finally, the Company will transmit all 911 calls initiated from any of its handsets even if the account associated with the handset has no remaining minutes.

E911-Compliant Handsets. Assist Wireless will ensure that all handsets used in connection with the Lifeline service offering are E911-compliant. The Company will use phones purchased from companies such as Ready Mobile, CWG and HTH that have been through a stringent certification process with Sprint Nextel and Verizon Wireless, which ensures that the handset models used meet all 911 and E911 requirements. As a result, any customer that qualifies for and elects Lifeline service will already have a 911/E911-compliant handset, which will be confirmed at the time of enrollment in the Lifeline program. Any new customer that qualifies for and enrolls in the Lifeline program is assured of receiving a 911/E911-compliant handset as well, free of charge.

²⁸ Assist Wireless purchases wireless services directly from intermediaries including Ready Mobile, Liberty Wireless and Natel Networks, LLC, which resell the wireless services of Sprint Nextel and Verizon Wireless.

IV. ASSIST WIRELESS' PLANS FOR COMPLIANCE WITH THE COMMISSION'S MARKETING AND DISCLOSURE REQUIREMENTS FOR PARTICIPATION IN THE LIFELINE PROGRAM

Assist Wireless' marketing materials²⁹ for its Lifeline services will state in clear, easily understood language: (1) that the service is supported by Lifeline; (2) that Lifeline is a government assistance program; (3) that the service is non-transferable; (4) that only eligible consumers may enroll in the program; (5) that the program is limited to one discount per household; (6) that documentation is necessary for enrollment; and (7) the Company's Lifeline Application will state that consumers who willfully make a false statement in order to obtain the Lifeline benefit can be punished by fine or imprisonment or can be barred from the program.³⁰

Assist Wireless also will disclose its name on all marketing materials.³¹ See Exhibit 4.

V. ASSIST WIRELESS' PROCEDURES AND EFFORTS TO PREVENT WASTE, FRAUD AND ABUSE IN CONNECTION WITH LIFELINE FUNDS

Assist Wireless shares the Commission's commitment to minimize waste, fraud and abuse of Lifeline benefits. According, Assist Wireless commits to implement a variety of measures and procedures intended to prevent duplicate Lifeline benefits from being awarded to the same household or individual.

Prevention of Duplicates within Assist Wireless' Subscriber Base. At the time of initial sign up of a new subscriber, the subscriber's service address is validated for accuracy against the USPS ("United States Postal Service") database and saved in the USPS-approved format, which permits Assist Wireless' subscriber database to more accurately prevent duplicates

²⁹ "Marketing materials" includes, but is not limited to print, audio, video, Internet (including email, web, and social networking media), and outdoor signage, that describe the Lifeline-supported service offering, including application and certification forms. See *Lifeline Reform Order*, ¶ 276; 47 C.F.R. § 54.405(c).

³⁰ *Lifeline Reform Order*, ¶ 275; 47 C.F.R. § 54.405(c).

³¹ 47 C.F.R. § 54.405(d).

REDACTED FOR PUBLIC INSPECTION

by preventing variations of the same address from appearing multiple times in the database. Once the address is validated for accuracy and format, it is checked against addresses for all Assist Wireless addresses and databases of other companies with whom Assist management has relationships. If an existing Lifeline subscriber is receiving service at the same address, Assist Wireless' system will not permit any order for Lifeline service to proceed unless the customer completes the process described below regarding multiple households at an address.

If the applicant lives at an address with multiple households, the Company will require the applicant to complete and submit the written USAC document containing the following: (1) an explanation of the Commission's one-per-household rule; (2) a check box that an applicant can mark to indicate that he or she lives at an address occupied by multiple households; (3) a space for the applicant to certify that he or she shares an address with other adults who do not contribute income to the applicant's household and share in the household's expenses or benefit from the applicant's income, pursuant to the Commission's definition; and (4) the penalty for a consumer's failure to make the required one-per-household certification (*i.e.*, de-enrollment).³² If an applicant completes this worksheet, the applicant's application and the worksheet undergo further review before the order is completed and the customer receives a phone. This is done to check to make sure that there is not a pattern of the same address being used for a large number of enrollments.

Assist Wireless also conducts additional checks to ensure that the same household is not receiving more than one Lifeline service by checking its database for the same subscriber name, date of birth and the last four digits of the person's social security number. Moreover, all orders

³² See *Lifeline Reform Order*, ¶ 78. The USAC worksheet is available at <http://www.usac.org/li/tools/news/default.aspx#582>.

REDACTED FOR PUBLIC INSPECTION

for Lifeline service are subjected to a secondary USPS accuracy and format check. Any corrections needed as a result of the secondary check, such as correcting address format, are promptly entered into Assist Wireless' system. Assist Wireless also conducts real-time scans of its database to flag any duplicate addresses, dates of birth, etc. in addition to conducting manual reviews of its subscriber lists prior to filing its FCC Form 497s in order to ensure that it does not claim subsidies for any duplicate addresses without having the accompanying USAC worksheet.

Service Activation. Assist Wireless will not seek reimbursement for prepaid Lifeline service for any subscriber until the subscriber activates the service by completing an outbound call at the time of enrollment. If the subscriber completes the enrollment process in person, they will be provided with a partially activated handset. The customer will be directed to use the handset to complete a telephone call in the presence of the Assist employee or agent. When a subscriber applies for Lifeline service by sending in the application form and proof of eligibility through the mail, by facsimile or by email, the subscriber is mailed a partially-activated handset once enrolled.³³ When the subscriber attempts to make any outbound call, the call is routed to the Assist interactive voice response system. The phone is activated once the customer replies to the IVR prompts. Assist is committed to ensuring handsets are utilized by the intended subscribers and has requested its operating system provider include a subscriber identification component in the handset activation process.

Non-Usage Policy. Assist Wireless voluntarily adopted a policy whereby a prepaid subscriber who has not used his or her handset within 60 days is de-enrolled from the Lifeline program (after a 30-day notice period). Assist Wireless' non-usage policy ensures that only

³³ 47 C.F.R. § 54.407(c).

REDACTED FOR PUBLIC INSPECTION

subscribers who actually utilize their wireless service continue to receive Lifeline-subsidized service, and that Assist Wireless only receives Lifeline support for those subscribers who remain enrolled in the program. Assist Wireless commits to continuing this practice in strict conformance with the requirements of 47 C.F.R. § 54.405(e)(3).

Specifically, after 30 days of non-use,³⁴ Assist Wireless will provide notice to the prepaid subscriber that failure to use the Lifeline service or provide other confirmation to Assist Wireless that the prepaid subscriber wishes to retain their Lifeline service within 30 days from the date of the de-enrollment notice will result in de-enrollment from the Lifeline program.³⁵ If the subscriber does not respond to the notice, the subscriber will be de-enrolled. Assist Wireless will not request further Lifeline reimbursement for any de-enrolled customer and Assist Wireless will report annually to the Commission the number of subscribers de-enrolled for non-usage by month.³⁶

One Per Household Rule. Assist Wireless will implement policies and practices in accordance with the Commission's rules and the *Lifeline Reform Order* to ensure that it provides only one Lifeline service per household.³⁷ As described above, Assist Wireless has already

³⁴ Subscribers can “use” the service by: (1) completing an outbound call; (2) purchasing minutes from Assist Wireless to add to the subscriber's plan; (3) answering an incoming call from a party other than Assist Wireless; or (4) responding to a direct contact from Assist Wireless confirming that the subscriber wants to continue receiving the service. 47 C.F.R. § 54.407(c)(2).

³⁵ 47 C.F.R. § 54.405(e)(3).

³⁶ *Id.*

³⁷ A “household” is any individual or group of individuals who are living together at the same address as one economic unit. A household may include related and unrelated persons. An “economic unit” consists of all adult individuals contributing to and sharing in the income and expenses of a household. An adult is any person eighteen years or older. If an adult has no or minimal income, and lives with someone who provides financial support to him/her, both people shall be considered part of the same household. Children under the age of eighteen living with their parents or guardians are considered to be part of the same household as their parents or guardians. See *Lifeline Reform Order*, ¶ 74; section 54.400(h).

REDACTED FOR PUBLIC INSPECTION

implemented procedures to ensure that Assist Wireless itself only provides one Lifeline service per household. Specifically, upon receiving an application for the Company's Lifeline service, the Company will search its own internal records and records of other companies with whom Company management has relationships to ensure that it does not already provide Lifeline-supported service to someone at the same residential address.³⁸ When the National Lifeline Accountability Database becomes available, Assist Wireless will fully comply with the requirements of 47 C.F.R. § 54.404 and will utilize the database to determine if an applicant is currently receiving Lifeline service from another carrier or if another person residing at the applicant's residential address is receiving Lifeline service.³⁹

In addition to checking the database when it becomes available, Company personnel emphasize the "one Lifeline phone per household" restriction in their direct sales contacts with potential customers. Training materials include a discussion of the limitation to one Lifeline phone per household, and the need to ensure that the customer is informed of this restriction. All employees and agents who deal with customers must demonstrate understanding of the Commission's and Assist Wireless' rules and policies by completing the Company's Lifeline training. Assist Wireless' employees and agents will inform each Lifeline applicant that he or she may be receiving Lifeline support under another name and ask applicants if they are receiving Lifeline services from another major Lifeline provider (e.g., SafeLink, Assurance,

³⁸ See *Lifeline Reform Order*, ¶ 78.

³⁹ See *Lifeline Reform Order*, ¶ 203. The Company will also transmit to the National Database the information required for each new and existing Lifeline subscriber. See *Lifeline Reform Order*, ¶¶ 189-195; section 54.404(b)(6). Further, the Company will update each subscriber's information in the National Database within ten business days of any change, except for de-enrollment, which will be transmitted within one business day. See § 54.404(b)(8),(10).

REDACTED FOR PUBLIC INSPECTION

etc.). Assist commits to ensuring employees and agents receive refresher training regarding changes to the Lifeline program and applicant qualification requirements.

Finally, if Assist Wireless has a reasonable basis to believe that one of its Lifeline subscribers no longer meets the eligibility criteria, for example, due to a violation of the one-per-household rule, Assist Wireless will initiate its termination process in accordance with the procedures set forth in 47 C.F.R. § 54.405(e)(1).

Company Reimbursements from the Fund. To ensure that the Company does not seek reimbursement from the Fund without a subscriber's consent, Assist Wireless will certify, as part of each reimbursement request, that it is in compliance with all of the Commission's Lifeline rules and, to the extent required, has obtained valid certification and verification forms from each of the subscribers for whom it is seeking reimbursement.⁴⁰ Further, the Company will submit its FCC Forms 497 by the eighth day of each month in order to be reimbursed the same month.⁴¹ In addition, the Company will keep accurate records as directed by USAC⁴² and as required by new section 54.417 of the Commission's rules.

Annual Company Certifications. Assist Wireless will submit an annual certification to USAC, signed by a Company officer under penalty of perjury, that the Company: (1) has policies and procedures in place to review consumers' documentation of income- and program-based eligibility and ensure that its Lifeline subscribers are eligible to receive Lifeline services;⁴³ (2) is

⁴⁰ See *Lifeline Reform Order*, ¶ 128; 47 C.F.R. § 54.407(d).

⁴¹ See *Lifeline Reform Order*, ¶¶ 302-306.

⁴² See 47 C.F.R. § 54.407(e).

⁴³ See *Lifeline Reform Order*, ¶ 126; 47 C.F.R. § 54.416(a)(1).

REDACTED FOR PUBLIC INSPECTION

in compliance with all federal Lifeline certification procedures;⁴⁴ and (3) has obtained a valid certification form for each subscriber for whom the carrier seeks Lifeline reimbursement.⁴⁵

In addition, the Company will provide the results of its annual recertifications/verifications on an annual basis to the Commission, USAC, the applicable state commission and the relevant Tribal governments (for subscribers residing on Tribal lands).⁴⁶ Further, the Company will report annually to the Commission the number of subscribers de-enrolled for non-usage by month.⁴⁷

The Company will also annually report to the Commission, USAC, and relevant state commissions and the relevant authority in a U.S. territory or Tribal government as appropriate,⁴⁸ the company name, names of the company's holding company, operating companies and affiliates, and any branding (such as a "dba" or brand designation) as well as relevant universal service identifiers for each entity by Study Area Code.⁴⁹ The Company will report annually information regarding the terms and conditions of its Lifeline plans for voice telephony service offered specifically for low income consumers during the previous year, including the number of minutes provided and whether there are additional charges to the consumer for service, including minutes of use and/or toll calls.⁵⁰ Finally, the Company will annually provide detailed information regarding service outages in the previous year, the number of complaints received

⁴⁴ See *Lifeline Reform Order*, ¶ 127; 47 C.F.R. §54.416(a)(2).

⁴⁵ See 47 C.F.R. §54.416(a)(3).

⁴⁶ See *Lifeline Reform Order*, ¶¶ 132,148; 47 C.F.R. §54.416(b).

⁴⁷ See *Lifeline Reform Order*, ¶ 257; 47 C.F.R. §54.405(e)(3).

⁴⁸ See 47 C.F.R. §54.422(c).

⁴⁹ See *Lifeline Reform Order*, ¶¶ 296, 390; 47 C.F.R. §54.422(a).

⁵⁰ See *Lifeline Reform Order*, ¶ 390; 47 C.F.R. §54.422(b)(5).

REDACTED FOR PUBLIC INSPECTION

and certification of compliance with applicable service quality standards and consumer protection rules, as well as a certification that the Company is able to function in emergency situations.⁵¹

Cooperation with State and Federal Regulators. Assist Wireless has cooperated and will continue to cooperate with federal and state regulators to prevent waste, fraud and abuse.

More specifically, the Company will:

- Make available state-specific subscriber data, including the names and addresses of Lifeline subscribers, to USAC and to each state public utilities commission where the Company operates for the purpose of determining whether an existing Lifeline subscriber receives Lifeline service from another carrier;⁵²
- Assist the Commission, USAC, state commissions, and other ETCs in resolving instances of duplicative enrollment by Lifeline subscribers, including by providing to USAC and/or any state commission, upon request, the necessary information to detect and resolve duplicative Lifeline claims;
- Promptly investigate any notification that it receives from the Commission, USAC, or a state commission to the effect that one of its customers already receives Lifeline services from another carrier; and
- Immediately de-enroll any subscriber whom the Company has a reasonable basis to believe⁵³ is receiving Lifeline-supported service from another ETC or is no longer eligible – whether or not such information is provided by the Commission, USAC, or a state commission.

⁵¹ See *Lifeline Reform Order*, ¶ 389; 47 C.F.R. §54.422(b)(1)-(4).

⁵² The Company anticipates that the need to provide such information will sunset following the implementation of the national duplicates database.

⁵³ See 47 C.F.R. § 54.405(e)(1).

VI. CONCLUSION

Assist Wireless submits that the foregoing Compliance Plan fully satisfies the conditions set forth in the *Lifeline Reform Order*, the *Public Notice* and the Commission's rules pertaining to Lifeline. Accordingly, Assist Wireless respectfully requests expeditious approval of its this Compliance Plan so that Assist Wireless may continue to provide essential Lifeline service to eligible low-income customers in states where it has previously been designated an ETC and may provide service to additional eligible low-income consumers in states in which it becomes a designated ETC.

Respectfully submitted,



John J. Heitmann
Denise N. Smith
Joshua Guyan
Kelley Drye & Warren, LLP
3050 K Street, NW
Suite 400
Washington, D.C. 20007
(202) 342-8400

Counsel to Assist Wireless, LLC

December 12, 2012

Exhibit 1

Confidential Exhibit

REDACTED FOR PUBLIC INSPECTION

REDACTED FOR PUBLIC INSPECTION

Exhibit 1

Section 54.422(a)(1) Report

The Company's three managing members, who are the only members owning 10% or more of the company, report that they, or their individual principals, also own or control 10% or more of companies listed below, which companies may be deemed to be 'affiliates' as that term is defined in 47 U.S.C. § 153(2), as well as its corporate and trade names, identifiers, holding company, and operating companies: **[Begin Confidential]**

[End Confidential] Flagship Equity Partners, LLC; SXCS Investments, LLC; Ambient Ventures, LLC; New Talk, Inc.; New Talk Wireless, LLC; Express Cash and Phone, Inc.; Young Energy, LLC; Telecom Ventures, LLC; Zip Networks, LLC; BBBY, Ltd.; U.S. Connect; Great Wireless, LLC; Sell More, LLC; Ally Power & Light, LLC; and Acacia Energy, LLC.

Assist reports that it does not own or control any entities and has no holding or operating companies.

The Company's corporate name is Assist Wireless, LLC and the Company has no trade names.

Exhibit 2

Lifeline Offerings

REDACTED FOR PUBLIC INSPECTION

Plan Description	Retail Price
<u>Lifeline Free Plan 68*</u>	Free
<p>Customers receive 68 free voice minutes per month with rollover for 90 days. Text messaging is assessed at a rate of 1 minute per text message for sending and 1 minute per text message for receiving text messages.</p> <p>Customers receive free voicemail, caller ID, call waiting, call forwarding, 3-way calling and domestic long distance.</p>	
<u>Lifeline Free Plan 125</u>	Free
<p>Customers receive 125 free voice minutes per month. Text messaging will be assessed at a rate of 1 minute per text message for sending and 1 minute per text message for receiving text messages. Unused minutes will rollover from month to month and are available for a maximum of sixty (60) days.</p> <p>Customers receive free voicemail, caller ID, call waiting, call forwarding, 3-way calling and domestic long distance.</p>	
<u>Lifeline Free Plan 250</u>	Free
<p>Customers receive 250 free voice minutes per month. Text messaging will be assessed at a rate of 1 minute per text message for sending and 1 minute per text message for receiving text messages. There are no rollover minutes with this plan. Unused minutes will expire each month on the service expiration date.</p> <p>Customers receive free voicemail, caller ID, call waiting, call forwarding, 3-way calling and domestic long distance.</p>	

*Assist now offers for all new customers 125 or 250 free voice minutes per month. Existing customers remain on the 68 minute plan. The 68-minute plan has been grandfathered to existing customers only and is not offered to new customers.

REDACTED FOR PUBLIC INSPECTION

<u>Plan Description (Tribal)</u>	<u>Retail Price</u>
---	----------------------------

Tribal Unlimited Minute Plan

\$5.00**

Unlimited free voice minutes.

Tribal 1,000 Minute Plan

\$1.00**

1,000 free voice minutes per month with no rollover. Text messaging is assessed at a rate of 1 minute per text message for sending and 1 minute per text message for receiving text messages.

**After application of standard \$34.25 Tribal Lifeline discounts.

REDACTED FOR PUBLIC INSPECTION

Plan Additions	Retail Price***
-----------------------	------------------------

Additional Minutes Offering Plans come in increments of \$5, \$10, \$15, \$20, \$25, \$30, and \$50

60 Minutes/Texts	\$5
200 Minutes/Texts	\$10
300 Minutes/Texts	\$15
400 Minutes/Texts	\$20
500 Minutes/Texts	\$25
600 Minutes/Texts	\$30
1300 Minutes/Texts	\$50
1700 Minutes/Texts	\$60

***Applicable taxes and government fees are assessed to the above Plan Additions.

Exhibit 3

Lifeline Application Form (Oklahoma)

FIRST NAME										LAST NAME																			
FULL PHYSICAL ADDRESS (NO P.O. BOXES – <i>This address must be your principal residence!</i>)																				APT / FLOOR									
																				<input type="checkbox"/> TEMPORARY <input type="checkbox"/> PERMANENT									
CITY																				STATE					ZIP CODE				
FULL MAILING ADDRESS (<i>If different from above</i>)																				APT / FLOOR									
																				<input type="checkbox"/> TEMPORARY <input type="checkbox"/> PERMANENT									
CITY																				STATE					ZIP CODE				
CONTACT PHONE NUMBER (<i>Including Area Code</i>)										DATE OF BIRTH (MM-DD-YYYY)										SOCIAL SECURITY OR TRIBAL ID NUMBER (<i>if no SS #</i>)									
EMAIL ADDRESS:																													



Section 5 – Qualifying Beneficiary (Complete if Section 2 benefits are in a name other than applicant - ie Free Lunch Program)

First name _____ Middle _____ Last Name _____

Section 6 – State Required Customer Information

State Specific Required ID Number _____

Section 7 – One Per Household

_____ (Customer Initials) I acknowledge that, to the best of my knowledge, no one at my household is receiving a Lifeline-supported service from any other provider.

Section 8 – Customer Signature

PLEASE READ THE FOLLOWING AND INITIAL. BY SIGNING BELOW YOU ARE AGREEING TO THE FOLLOWING PROGRAM RULES:

- I certify under penalty of perjury that I either participate in the indicated qualifying federal _____ program or I meet the income qualification to establish my eligibility for Lifeline.
- If required to do so, I have provided accurate documentation of my eligibility.
- I certify I am head of the household, I am not listed as a dependent on another person's tax return (unless over the age of 60) and the address listed is my primary residence.
- I confirm local voice service discounts under the low income programs are limited to one per household and that my household is receiving no more than one Lifeline supported service. If I am participating in another Lifeline program at the time I apply for Assist Wireless Lifeline service, I agree to cancel that Lifeline service with any other provider. I certify that I will only receive one Lifeline connection, will not have simultaneous or multiple Lifeline discounts with another provider.
- I acknowledge that I may be required to re-certify my continued eligibility for Lifeline at any time, and that failure to do so will result in the termination of the my Lifeline benefits.
- I understand that I must inform Assist Wireless within 30 days if I (1) no longer participate in a federal qualifying program or programs or my annual household income exceeds 135% of the Federal Poverty Guidelines; (2) I am receiving more than one Lifeline-supported service per household; or (3) I, for any other reason, no longer satisfy the criteria for receiving Lifeline support. I attest under penalty of perjury that I understand this notification requirement, and that I may be subject to penalties if I fail to follow this rule.
- I understand that Lifeline service is a non-transferable benefit, and that I may not transfer my service to any other individual, including another eligible low-income consumer.
- I acknowledge and consent to the use of my name, telephone number, and address to be given to the Universal Service Administrative Company (USAC) (the administrator of the program) and/or its agents for the purpose of verifying that I 'm not receive more than one Lifeline benefit. I understand that refusal to grant this permission will mean I am not eligible for Lifeline service. I also authorize Assist Wireless to access any records required to verify my statements herein and to confirm my continued eligibility for Lifeline assistance.
- I understand that if I move, I must provide a new address to Assist Wireless within 30 days of my move.
- I understand that if I provided a Temporary Address, I must verify with Assist Wireless every 90 days that I am using the same address. I understand that if I fail to do so, I will lose my Lifeline discount.

By my signature below, I certify under penalty of perjury that I have read and understood this form and that I attest that the information contained in this application that I have provided is true and correct to the best of my knowledge and that I acknowledge that providing false or fraudulent information to receive Lifeline benefits is punishable by law.

Signature _____ Date _____

Section 9 – Tribal Certification

_____ BY CHECKING HERE AND MY SIGNATURE ABOVE I CERTIFY THAT MY ADDRESS IS ON FEDERALLY RECOGNIZED TRIBAL LAND

COMPANY USE ONLY

I hereby certify that I have reviewed and verified the required documentation for the program(s) indicated by the applicant for the use of Lifeline eligibility or verified the applicant's eligibility via the available state database. I also certify that I have reviewed the necessary documentation to verify identity and address of the applicant, and I am aware that falsification of this is subject to termination or legal action by the company.

Company Representative - Print Full Name (No Initials)

Company Representative Signature

Customer Account Number

Date

Agent Number

Place Label Bar Code Here



Exhibit 4

Sample Marketing Materials (Oklahoma)

FREE ASSIST PHONE

ARE YOU ELIGIBLE TO
RECEIVE WIRELESS SERVICE?

**NO CREDIT CHECK, NO CONTRACT,
NO BACKGROUND CHECK**

WANT TO KNOW IF YOU ARE ELIGIBLE
FOR **LIFELINE** ASSISTANCE?

IF YOU RECEIVE **ANY** ASSISTANCE FROM THESE
PROGRAMS YOU MAY BE **ELIGIBLE!**



☒ Supplemental
Security Income

☒ Section 8
Housing Assistance



☒ Low Income
Home Energy
Assistance Program

☒ MEDICAID



☒ Temporary Assistance
for Needy Families

☒ SNAP
Food Stamps



☒ National School Lunch Program

Program eligibility requirements vary from state to state.
Call or visit www.Assistwireless.com for specific
eligibility requirements for your state.

What is Lifeline?

LIFELINE is a government assistance program. Service is non-transferable and only eligible customers may enroll in the program. The program is limited to one discount per household. Documentation is necessary for enrollment. Customers who willfully make a false statement in order to obtain the lifeline benefit can be punished by fine, imprisonment or can be barred from the program.

CALL OUR TOLL FREE NUMBER
855-EZ-ASSIST
(392-7747)

www.assistwireless.com

 **ASSIST**wireless
WIRELESS SERVICE ASSISTANCE

REDACTED FOR PUBLIC INSPECTION

EXHIBIT C

State	SAC	Study Area Name	Rural or Non-Rural
AL	255181	SO CENTRAL BELL-AL	Non-rural
AL	259788	CENTURYTEL-AL-SOUTH	Non-rural
AL	259789	CENTURYTEL-AL-NORTH	Non-rural
AL	250282	BLOUNTSVILLE TEL CO	Rural
AL	250283	BRINDLEE MOUNTAIN	Rural
AL	250284	BUTLER TEL CO	Rural
AL	250285	CASTLEBERRY TEL CO	Rural
AL	250286	NATIONAL OF ALABAMA	Rural
AL	250290	FARMERS TELECOM COOP	Rural
AL	250295	GRACEBA TOTAL COMM	Rural
AL	250298	GULF TEL CO - AL	Rural
AL	250299	HAYNEVILLE TEL CO	Rural
AL	250300	HOPPER TELECOM.CO	Rural
AL	250301	FRONTIER-LAMAR CNTY	Rural
AL	250302	WINDSTREAM AL	Rural
AL	250304	MILLRY TEL CO	Rural
AL	250305	MON-CRE TEL COOP	Rural
AL	250306	FRONTIER COMM.-AL	Rural
AL	250307	MOUNDVILLE TEL CO	Rural
AL	250308	NEW HOPE TEL COOP	Rural
AL	250311	OAKMAN TEL CO (TDS)	Rural
AL	250312	OTELCO TELEPHONE LLC	Rural
AL	250314	PEOPLES TEL CO	Rural
AL	250315	PINE BELT TEL CO	Rural
AL	250316	RAGLAND TEL CO	Rural
AL	250317	ROANOKE TEL CO	Rural
AL	250318	FRONTIER COMM-SOUTH	Rural
AL	250322	UNION SPRINGS TEL CO	Rural
CT	132454	THE WOODBURY TEL CO	Rural
CT	135200	SOUTHERN NEW ENGLAND	Non-rural
DC	575020	VERIZON WA, DC INC.	Non-rural
DE	565010	VERIZON DELAWARE INC	Non-rural
FL	210328	VERIZON FLORIDA	Non-rural
FL	210291	GTC, INC.	Rural
FL	210318	FRONTIER COMM-SOUTH	Rural
FL	210329	GTC, INC.	Rural
FL	210330	SMART CITY TEL LLC	Rural
FL	210331	ITS TELECOMM. SYS.	Rural
FL	210335	NORTHEAST FLORIDA	Rural
FL	210336	WINDSTREAM FL	Rural
FL	210338	QUINCY TEL CO-FL DIV	Rural
FL	210339	GTC, INC.	Rural
FL	210341	EMBARQ FLORIDA INC. FKA SPRINT	Rural
NC	230479	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural
NC	230509	FRONTIER COMMUNICATIONS OF THE CAROLINAS, INC.	Non-rural

State	SAC	Study Area Name	Rural or Non-Rural
NC	230864	VERIZON SOUTH INC. DBA NORTH CAROLINA	Non-rural
NC	235193	SOUTHERN BELL-NC	Non-rural
NC	230468	ATLANTIC MEMBERSHIP	Rural
NC	230469	BARNARDSVILLE TEL CO	Rural
NC	230470	CAROLINA TEL & TEL	Rural
NC	230471	CENTEL OF NC	Rural
NC	230473	CITIZENS TEL CO	Rural
NC	230474	CONCORD TEL CO	Rural
NC	230476	WINDSTREAM NC	Rural
NC	230478	ELLERBE TEL CO	Rural
NC	230483	LEXCOM TELEPHONE CO.	Rural
NC	230485	MEBTTEL, INC.	Rural
NC	230491	N.ST. DBA N. ST.COMM	Rural
NC	230494	PINEVILLE TEL CO	Rural
NC	230495	RANDOLPH TEL CO	Rural
NC	230496	RANDOLPH MEMBERSHIP	Rural
NC	230497	PIEDMONT MEMBERSHIP	Rural
NC	230498	SALUDA MOUNTAIN TEL	Rural
NC	230500	SERVICE TEL CO	Rural
NC	230501	SKYLINE MEMBERSHIP	Rural
NC	230502	STAR MEMBERSHIP CORP	Rural
NC	230503	SURRY MEMBERSHIP	Rural
NC	230505	TRI COUNTY TEL MEMBR	Rural
NC	230510	WILKES MEMBERSHIP	Rural
NC	230511	YADKIN VALLEY TEL	Rural
NH	125113	NORTHERN NEW ENGLAND TELEPHONE OPERATIONS LLC	Non-rural
NH	120038	BRETTON WOODS TEL CO	Rural
NH	120039	GRANITE STATE TEL	Rural
NH	120042	DIXVILLE TEL CO	Rural
NH	120043	DUNBARTON TEL CO	Rural
NH	120045	KEARSARGE TEL CO	Rural
NH	120047	MERRIMACK COUNTY TEL	Rural
NH	120049	UNION TEL CO	Rural
NH	120050	WILTON TEL CO - NH	Rural
NH	123321	MCTA, INC.	Rural
NY	150121	FRONTIER-ROCHESTER	Non-rural
NY	155130	VERIZON NEW YORK	Non-rural
NY	150071	ARMSTRONG TEL CO-NY	Rural
NY	150072	FRONTIER-AUSABLE VAL	Rural
NY	150073	BERKSHIRE TEL CORP	Rural
NY	150076	CASSADAGA TEL CORP	Rural
NY	150077	CHAMPLAIN TEL CO	Rural
NY	150078	CHAUTAUQUA & ERIE	Rural
NY	150079	CHAZY & WESTPORT	Rural
NY	150081	CITIZENS HAMMOND NY	Rural

State	SAC	Study Area Name	Rural or Non-Rural
NY	150084	TACONIC TEL CORP	Rural
NY	150085	CROWN POINT TEL CORP	Rural
NY	150088	DELHI TEL CO	Rural
NY	150089	DEPOSIT TEL CO	Rural
NY	150091	DUNKIRK & FREDONIA	Rural
NY	150092	EDWARDS TEL CO	Rural
NY	150093	EMPIRE TEL CORP	Rural
NY	150095	FISHERS ISLAND TEL	Rural
NY	150097	GERMANTOWN TEL CO	Rural
NY	150099	HANCOCK TEL CO	Rural
NY	150100	FRONTIER COMM OF NY	Rural
NY	150104	MARGARETVILLE TEL CO	Rural
NY	150105	MIDDLEBURGH TEL CO	Rural
NY	150106	WINDSTREAM NY-FULTON	Rural
NY	150107	NEWPORT TEL CO	Rural
NY	150108	NICHOLVILLE TEL CO	Rural
NY	150109	WINDSTREAM-JAMESTOWN	Rural
NY	150110	OGDEN TEL DBA FRNTER	Rural
NY	150111	ONEIDA COUNTY RURAL	Rural
NY	150112	ONTARIO TEL CO, INC.	Rural
NY	150113	WINDSTREAM RED JACKT	Rural
NY	150114	ORISKANY FALLS TEL	Rural
NY	150116	PATTERSONVILLE TEL	Rural
NY	150118	PORT BYRON TEL CO	Rural
NY	150121	FRONTIER-ROCHESTER	Rural
NY	150122	FRONTIER-SENECA GORH	Rural
NY	150125	STATE TEL CO	Rural
NY	150128	FRONTIER-SYLVAN LAKE	Rural
NY	150129	TOWNSHIP TEL CO	Rural
NY	150131	TRUMANSBURG TEL CO.	Rural
NY	150133	VERNON TEL CO	Rural
NY	150135	WARWICK VALLEY-NY	Rural
NY	154532	CITIZENS-FRONTIER-NY	Rural
NY	154533	CITIZENS-FRONTIER-NY	Rural
NY	154534	CITIZENS-FRONTIER-NY	Rural
TN	290280	ARDMORE TEL CO	Rural
TN	290552	CENTURYTEL-ADAMSVILL	Rural
TN	290553	BEN LOMAND RURAL	Rural
TN	290554	BLED SOE TEL COOP	Rural
TN	290557	CENTURY-CLAIBORNE	Rural
TN	290559	CONCORD TEL EXCHANGE	Rural
TN	290561	CROCKETT TEL CO	Rural
TN	295185	SO. CENTRAL BELL -TN	Non-rural
TN	290562	DEKALB TEL COOP	Rural
TN	290565	HIGHLAND TEL COOP-TN	Rural

State	SAC	Study Area Name	Rural or Non-Rural
TN	290566	HUMPHREY'S COUNTY	Rural
TN	290567	UNITED INTER-MT-TN	Rural
TN	290570	LORETTO TEL CO	Rural
TN	290571	MILLINGTON TEL CO	Rural
TN	290573	NORTH CENTRAL COOP	Rural
TN	290574	CENTURYTEL-OOLTEWAH	Rural
TN	290575	TENNESSEE TEL CO	Rural
TN	290576	PEOPLES TEL CO	Rural
TN	290578	TELLICO TEL CO	Rural
TN	290579	TWIN LAKES TEL COOP	Rural
TN	290580	CTZENS-FRNTR-VOL ST	Rural
TN	290581	UTC OF TN	Rural
TN	290583	WEST TENNESSEE TEL	Rural
TN	290584	YORKVILLE TEL COOP	Rural
TN	290598	WEST KENTUCKY RURAL TELEPHONE	Rural
TN	294336	CITIZENS-FRONTIER-TN	Rural
VA	195040	VERIZON VIRGINIA INC	Non-rural
VA	190233	VERIZON S-VA(CONTEL)	Non-rural
VA	190217	AMELIA TEL CORP	Rural
VA	190219	BUGGS ISLAND COOP	Rural
VA	190220	BURKE'S GARDEN TEL	Rural
VA	190225	CITIZENS TEL COOP	Rural
VA	190226	NTELOS, INC.	Rural
VA	190237	HIGHLAND TEL COOP	Rural
VA	190238	MGW TEL. CO. INC.	Rural
VA	190239	NEW HOPE TEL COOP	Rural
VA	190243	PEMBROKE TEL COOP	Rural
VA	190244	PEOPLES MUTUAL TEL	Rural
VA	190248	SCOTT COUNTY COOP	Rural
VA	190249	ROANOKE & BOTETOURT	Rural
VA	190250	SHENANDOAH TEL CO	Rural
VA	190253	VIRGINIA TEL CO	Rural
VA	190254	CENTEL OF VIRGINIA	Rural
VA	190479	VERIZON SOUTH-VA	Rural
VA	190567	UNITED INTER-MT-VA	Rural
VA	193029	NEW CASTLE TEL. CO.	Rural
VA	197251	SHENANDOAH TELEPHONE COMPANY - NR	Rural